"बिजनेस पोस्ट के अन्तर्गत डाक शुल्क के नगद भुगतान (बिना डाक टिकट) के प्रेषण हेतु अनुमत. क्रमांक जी. 2-22-छत्तीसगढ़ गजट/38 सि. से. भिलाई, दिनांक 30-5-2001."



पंजीयन क्रमांक
"छत्तीसगढ़/दुर्ग/09/2013-2015."

छत्तीसगढ़ राजपत्र

प्राधिकार से प्रकाशित

क्रमांक 29] रायपुर, शुक्रवार, दिनांक 20 जुलाई 2018—आषाढ़ 29, शक 1940

विषय—सूची

भाग १

राज्य शासन के आदेश

सामान्य प्रशासन विभाग
मंत्रालय, महानदी भवन, नया रायपुर

नया रायपुर, दिनांक 23 जून 2018

क्रमांक एफ 5-14/2017/1 (एक).—राज्य शासन एतद्द्वारा माननीय न्यायमूर्ति Shri Thottathil B. Radhakrishnan मुख्य न्यायाधिपति, छत्तीसगढ़ उच्च न्यायालय बिलासपुर को दिनांक 07-05-2018 से 23-05-2018 (17 दिन) का पूर्ण वेतन भत्तों सहित लघुकृत अवकाश का लाभ लेने की स्वीकृति प्रदान करता है.

छत्तीसगढ़ के राज्यपाल के नाम से तथा आदेशानुसार,
ईमिल लकड़ा, विशेष सचिव.

संचालक, मुद्रण तथा लेखन सामग्री, छत्तीसगढ़ द्वारा शासकीय क्षेत्रीय मुद्रणालय, राजनांदगांव से मुद्रित तथा प्रकाशित—2018.

विधि और विधायी कार्य विभाग
मंत्रालय, महानदी भवन, नया रायपुर

नया रायपुर, दिनांक 26 जून 2018

क्रमांक 6384/1209/21-ब/छ.ग./2018.—राज्य शासन, एतद्द्वारा अतिरिक्त शासकीय अभिभाषक/अतिरिक्त लोक अभियोजक, कांकेर के पद पर नियुक्त श्री दिलीप सिंह नरेटी, अधिवक्ता, जिला-कांकेर (छ.ग.) को शासन की ओर से पैरवी करने के लिए दिनांक 23-03-2016 से तीन वर्ष की कालावधि या 62 वर्ष जो भी पहले हो, के लिए अतिरिक्त शासकीय अभिभाषक नियुक्त करता है तथा दण्ड प्रक्रिया संहिता, 1973 (क्र. 02 सन् 1974) की धारा-24 की उपधारा (3) द्वारा प्रदत्त शक्तियों को प्रयोग में लाते हुए उसी अवधि के लिए उन्हें अतिरिक्त लोक अभियोजक भी नियुक्त करता है. किसी भी पक्ष द्वारा एक माह का नोटिस देकर यह नियुक्ति समाप्त की जा सकती है.

उन्हें शासन द्वारा निर्धारित एवं समय-समय पर संशोधित रिटेनर फीस एवं अन्य फीस देय होगी. उनकी सेवा की अन्य शर्तें छ.ग. विधि विभाग मैन्युअल में निर्धारित अनुसार होगी.

उक्त संबंध में होने वाला व्यय मांग संख्या 29-2014-न्याय प्रशासन, 114-कानूनी सलाहकार और परिषद्, 3572 - मुफस्सिल स्थापना, 10 - व्यवसायिक सेवाओं हेतु अदायगियां, 008-शासकीय अभिभाषकों को फीस मद के अन्तर्गत प्रभारित किया जावेगा.

छत्तीसगढ़ के राज्यपाल के नाम से तथा आदेशानुसार,
मनीष कुमार ठाकुर, अतिरिक्त सचिव.

श्रम विभाग
मंत्रालय, महानदी भवन, नया रायपुर

नया रायपुर, दिनांक 5 जून 2018

क्रमांक एफ 10-10/2018/16.—राज्य शासन एतद्द्वारा असंगठित कर्मकार सामाजिक सुरक्षा अधिनियम, 2008 की धारा 3 की उपधारा (4) द्वारा प्रदत्त शक्तियों को प्रयोग में लाते हुए ठेका श्रमिक, हमाल श्रमिक एवं घरेलू महिला कामगारों के लिए निम्नानुसार योजना बनाती है :—

ठेका श्रमिक, हमाल श्रमिक एवं घरेलू महिला कामगारों हेतु गंभीर बीमारी

चिकित्सा सहायता योजना :—

(अ) योजना का प्रावधान :—

(i) योजना का नाम "ठेका श्रमिक, हमाल श्रमिक एवं घरेलू महिला कामगार गंभीर बीमारी चिकित्सा सहायता योजना" होगा.

(ii) पंजीकृत ठेका श्रमिक, हमाल श्रमिक एवं घरेलू महिला कामगार जो गंभीर बीमारी से पीड़ित होने पर इलाज हेतु रुपये 50,000/- की चिकित्सा सहायता प्रदान की जायेगी.

(iii) योजना का प्रावधान छत्तीसगढ़ राजपत्र में प्रकाशन के दिनांक से प्रभावशील होगा.

(iv) योजना के अंतर्गत गंभीर बीमारी में किडनी, कैंसर, सिकलसेल, एनिमिया, हृदय रोग, एड्स एवं लकवा रोग सम्मिलित होंगे.

(ब) योजना का पात्रता :—

(i) योजना का लाभ प्राप्त करने हेतु छ.ग. असंगठित कर्मकार राज्य सामाजिक सुरक्षा मंडल में कम से कम 90 दिवस पूर्व पंजीयन होना आवश्यक है.

(ii) 18 से 60 वर्ष की उम्र के ठेका श्रमिक, हमाल श्रमिक एवं घरेलू महिला कामगार इस योजना के लिए पात्र होगे.

(iii) ठेका श्रमिक, हमाल श्रमिक एवं घरेलू महिला कमागरों का हिताधिकारी के रूप में अधिनियम की धारा 10 के अंतर्गत पंजीयन होना चाहिए.

(iv) योजना का लाभ एक बार प्राप्त होगा.

(v) योजना का लाभ राज्य शासन के समानांतर किसी अन्य योजना से प्राप्त कर रहा है, तो इस योजना का लाभ नहीं मिलेगा.

(स) योजना हेतु आवेदन की प्रक्रिया :—

(i) हितग्राही को किसी भी च्वाईस सेंटर, कम्प्यूटर सेंटर अथवा संबंधित क्षेत्राधिकारिता के सहायक श्रमायुक्त/श्रम पदाधिकारी कार्यालय में जाकर वेबसाईट में दिये निर्देशानुसार ऑनलाईन आवेदन करना होगा.

(ii) आवेदन पत्र के साथ संबंधित बीमारी के संबंध में विकासखंड चिकित्सा अधिकारी सिविल सर्जन/मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी का प्रमाण पत्र संलग्न करना अनिवार्य होगा. संबंधित चिकित्सा अधिकारी द्वारा जारी किये गये प्रमाण पत्र में संबंधित बीमारी के चिकित्सा खर्च की अनुमानित व्यय का उल्लेख किया जाना आवश्यक है.

(द) स्वीकृति का अधिकार :— योजना के अंतर्गत स्वीकृति का अधिकार संबंधित जिले के कलेक्टर द्वारा अधिकृत अधिकारी/सहायक श्रमायुक्त/श्रम पदाधिकारी/सहायक श्रम पदाधिकारी को होगा.

(इ) विसंगति का निराकरण :— योजना में उल्लेखित शर्तों/नियमों के अतिरिक्त यदि कोई विसंगति उत्पन्न होती है, उस स्थिति में सचिव, छत्तीसगढ़ असंगठित कर्मकार राज्य सामाजिक सुरक्षा मण्डल का निर्णय अंतिम माना जावेगा.

नया रायपुर, दिनांक 20 जून 2018

क्रमांक एफ 10-13/2018/16.—राज्य शासन एतद्द्वारा असंगठित कर्मकार सामाजिक सुरक्षा अधिनियम, 2008 की धारा 3 की उपधारा (4) द्वारा प्रदत्त शक्तियों को प्रयोग में लाते हुये छत्तीसगढ़ असंगठित कर्मकार राज्य सामाजिक सुरक्षा मंडल द्वारा सफाई कर्मकारों के लिए संचालित "सफाई कर्मकार पुत्र/पुत्री सायकल साहयता योजना" बाबत् अधिसूचना क्रमांक एफ 10-2/2015/16, दिनांक 11-03-2018 की कंडिका (2) (2.3) में निम्नानुसार कंडिका प्रतिस्थापित की जाती है :—

2. **योजना हेतु पात्रता :—**

2.3 योजनांतर्गत कक्षा छठवीं एवं उससे उच्च कक्षाओं में अध्ययनरत पुत्र/पुत्री को सायकल प्रदाय किया जावेगा.

2.4 यदि कर्मकार के बच्चे को सरस्वती सायकल सहायता योजना का लाभ मिल रहा है, तो वह सफाई कर्मकार पुत्र/पुत्री सायकल सहायता योजना अंतर्गत लाभ लेने के लिए पात्र नहीं होंगे.

उक्त संशोधन अधिसूचना दिनांक से प्रभावशील होगा.

छत्तीसगढ़ के राज्यपाल के नाम से तथा आदेशानुसार,
तीरथ प्रसाद लड़िया, अवर सचिव.

वाणिज्य एवं उद्योग विभाग
मंत्रालय, महानदी भवन, नया रायपुर

रायपुर, दिनांक 19 जून 2018

क्रमांक एफ 20-81/2015/11/(6).—चूंकि, राज्य सरकार का यह समाधान हो गया है कि लोकहित में ऐसा करना आवश्यक है,

अतएव राज्य शासन एतद्द्वारा "छत्तीसगढ़ राज्य गुणवत्ता प्रमाणीकरण अनुदान नियम 2014" हेतु जारी समसंख्यक अधिसूचना दिनांक 24-09-2015 में निम्नानुसार स्पष्ट करती है, अर्थात :—

स्पष्टीकरण

(एक) उक्त अधिसूचना की कंडिका 3 पात्रता में उपकंडिका (1) तथा उपकंडिका (2) में उल्लेखित वाक्यांश "अन्य समान राष्ट्रीय/अन्तर्राष्ट्रीय प्रमाणीकरण" के अंतर्गत "जेड प्रमाणीकरण" भी सम्मिलित माना जायेगा.

यह स्पष्टीकरण इस अधिसूचना के जारी होने की दिनांक से प्रवृत्त हुये समझा जायेगा.

छत्तीसगढ़ के राज्यपाल के नाम से तथा आदेशानुसार,
व्ही. के. छबलानी, विशेष सचिव.

राजस्व विभाग

कार्यालय, कलेक्टर, जिला कोरबा, छत्तीसगढ़ एवं पदेन उप-सचिव, छत्तीसगढ़ शासन, राजस्व एवं आपदा प्रबंधन विभाग

कोरबा, दिनांक 23 जून 2018

प्रारूप-एक
(नियम 11 देखिये)

क्रमांक/10811/क/भू-अर्जन/10 अ/82/2017-18.—भूमि-अर्जन, पुनर्वासन एवं पुनर्व्यवस्थापन में उचित प्रतिकर तथा पारदर्शिता का अधिकार अधिनियम, 2013 की धारा 4 सहपठित नियम 7 के अंतर्गत नीचे अनुसूची में उल्लेखित भूमि का अर्जन लोक प्रयोजन हेतु राज्य सरकार द्वारा आशयित है, अर्थात् :—

जिला (1)	तहसील (2)	ग्राम/नगर (3)	क्षेत्रफल (4)	लोक प्रयोजन का विवरण (5)
कोरबा	करतला उप तह. बरपाली	गुमिया	3.305 हे.	तेन्दुवाही व्यपवर्तन योजना के नहर निर्माण

उपरोक्त उल्लेखित भूमि के अर्जन हेतु सामाजिक समाघात निर्धारण के अध्ययन हेतु जन सुनवाई दिनांक 14-07-2018 को समय 12.00 बजे से स्थान ग्राम गुमिया नियत की गई है. प्रस्तावित भूमि अर्जन का अन्य विवरण निम्नानुसार है :—

1.	लोक प्रयोजन का संक्षिप्त विवरण	—	तेन्दुवाही व्यपवर्तन योजना के नहर निर्माण
2.	प्रत्यक्ष रूप से प्रभावित परिवारों की संख्या	—	44
3.	अप्रत्यक्ष रूप से प्रभावित परिवारों की संख्या	—	निरंक
4.	प्रभावित क्षेत्र में निजी मकानों तथा अन्य परिसम्पत्तियों की अनुमानित संख्या.	—	निरंक
5.	प्रभावित क्षेत्र में शासकीय मकानों तथा अन्य परिसम्पत्तियों की अनुमानित संख्या.	—	निरंक
6.	क्या प्रस्तावित अर्जन न्यूनतम है ?	—	हां
7.	क्या संभव विकल्पों और इसकी साध्यता पर विचार कर लिया गया है ?	—	हां
8.	परियोजना की कुल लागत	—	245.52 लाख
9.	परियोजना से होने वाला लाभ	—	सिंचाई हेतु
10.	प्रस्तावित सामाजिक समाघात की प्रतिपूर्ति के लिये उपाय तथा उस पर होने वाला संभावित व्यय.	—	प्रस्तावित सामाजिक समाघात की प्रतिपूर्ति के लिए संभावित उपाय किये जा रहे हैं. इस हेतु कार्यपालन अभियंता, जल संसाधन संभाग कोरबा द्वारा राशि 5.00 लाख का भुगतान चेक क्रमांक 263204 दिनांक 11-06-2018 के माध्यम से जमा किया गया है.
11	परियोजना द्वारा प्रभावित होने वाले अन्य घटक	—	निरंक

उपरोक्त भूमि अर्जन के संबंध में किसी व्यक्ति/संस्था या अन्य किसी व्यक्ति को कोई जानकारी/सुझाव देना हो, तो विहित तिथि/समय एवं स्थान पर दी जा सकेगी.

छत्तीसगढ़ के राज्यपाल के नाम से तथा आदेशानुसार,
मो. कैसर अब्दुल हक, कलेक्टर एवं पदेन उप-सचिव.

कार्यालय, कलेक्टर, जिला रायगढ़, छत्तीसगढ़ एवं पदेन उप-सचिव, छत्तीसगढ़ शासन, राजस्व एवं आपदा प्रबंधन विभाग

रायगढ़, दिनांक 11 जुलाई 2018

प्रारूप-एक
(नियम 11 देखिये)

क्रमांक/1620/09 अ-82/अ.वि.अ./भू-अर्जन/2017-18.—भूमि-अर्जन, पुनर्वासन एवं पुनर्व्यवस्थापन में उचित प्रतिकर तथा पारदर्शिता का अधिकार अधिनियम, 2013 की धारा 4 सहपठित नियम 7 के अंतर्गत नीचे अनुसूची में उल्लेखित भूमि का अर्जन लोक प्रयोजन हेतु राज्य सरकार द्वारा आशयित है, अर्थात् :—

जिला (1)	तहसील (2)	ग्राम/नगर (3)	क्षेत्रफल (4)	लोक प्रयोजन का विवरण (5)
रायगढ़	सारंगढ़	प्रधानपुर	1.250 हे.	लीलार व्यपवर्तन नहर निर्माण

उपरोक्त उल्लेखित भूमि के अर्जन हेतु सामाजिक समाघात निर्धारण के अध्ययन हेतु जन सुनवाई दिनांक 06-08-2018 को समय 11.00 बजे से स्थान प्रधानपुर पर नियत की गई है. प्रस्तावित भूमि अर्जन का अन्य विवरण निम्नानुसार है :—

(एक)	लोक प्रयोजन का संक्षिप्त विवरण	—	नहर निर्माण हेतु
(दो)	प्रत्यक्ष रूप से प्रभावित परिवारों की संख्या	—	13
(तीन)	अप्रत्यक्ष रूप से प्रभावित परिवारों की संख्या	—	19
(चार)	प्रभावित क्षेत्र में निजी मकानों तथा अन्य परिसम्पत्तियों की अनुमानित संख्या.	—	निरंक
(पांच)	प्रभावित क्षेत्र में शासकीय मकानों तथा अन्य परिसम्पत्तियों की अनुमानित संख्या.	—	निरंक
(छः)	क्या प्रस्तावित अर्जन न्यूनतम है ?	—	हां
(सात)	क्या संभव विकल्पों और इसकी साध्यता पर विचार कर लिया गया है ?	—	हां उल्लेखित भूमि पर नहर निर्माण कार्य हेतु प्रस्तावित है.
(आठ)	परियोजना की कुल लागत	—	970.10 लाख
(नौ)	परियोजना से होने वाला लाभ	—	आस पास के कृषकों की सिंचाई सुविधा एवं आर्थिक उत्थान.
(दस)	प्रस्तावित सामाजिक समाघात की प्रतिपूर्ति के लिये उपाय तथा उस पर होने वाला संभावित व्यय.	—	उचित प्रतिकर तथा पारदर्शिता का अधिकार अधिनियम-2013 द्वारा दर्शायी गई तथा समय-समय पर छ.ग. शासन द्वारा बताई गई उपाय का अनुपालन किया जावेगा संभावित व्यय रुपये पांच लाख या वास्तविक व्यय जो भी अधिक हो.
(ग्यारह)	परियोजना द्वारा प्रभावित होने वाले अन्य घटक	—	निरंक

उपरोक्त भूमि अर्जन के संबंध में किसी व्यक्ति/संस्था या अन्य किसी व्यक्ति को कोई जानकारी/सुझाव देना हो, तो विहित तिथि/समय एवं स्थान पर दी जा सकेगी.

रायगढ़, दिनांक 11 जुलाई 2018

प्रारूप-एक
(नियम 11 देखिये)

क्रमांक/1620/10 अ-82/अ.वि.अ./भू-अर्जन/2018.—भूमि-अर्जन, पुनर्वासन एवं पुनर्व्यवस्थापन में उचित प्रतिकर तथा पारदर्शिता का अधिकार अधिनियम, 2013 की धारा 4 सहपठित नियम 7 के अंतर्गत नीचे अनुसूची में उल्लेखित भूमि का अर्जन लोक प्रयोजन हेतु राज्य सरकार द्वारा आशयित है, अर्थात् :—

जिला	तहसील	ग्राम/नगर	क्षेत्रफल	लोक प्रयोजन का विवरण
(1)	(2)	(3)	(4)	(5)
रायगढ़	सारंगढ़	मचलाडीह	0.202 हे.	लीलार व्यपवर्तन नहर निर्माण

उपरोक्त उल्लेखित भूमि के अर्जन हेतु सामाजिक समाघात निर्धारण के अध्ययन हेतु जन सुनवाई दिनांक 06-08-2018 को समय 11.00 बजे से स्थान प्रधानपुर पर नियत की गई है. प्रस्तावित भूमि अर्जन का अन्य विवरण निम्नानुसार है :—

(एक)	लोक प्रयोजन का संक्षिप्त विवरण	—	नहर निर्माण हेतु
(दो)	प्रत्यक्ष रूप से प्रभावित परिवारों की संख्या	—	03
(तीन)	अप्रत्यक्ष रूप से प्रभावित परिवारों की संख्या	—	03
(चार)	प्रभावित क्षेत्र में निजी मकानों तथा अन्य परिसम्पत्तियों की अनुमानित संख्या.	—	निरंक
(पांच)	प्रभावित क्षेत्र में शासकीय मकानों तथा अन्य परिसम्पत्तियों की अनुमानित संख्या.	—	निरंक
(छः)	क्या प्रस्तावित अर्जन न्यूनतम है ?	—	हां
(सात)	क्या संभव विकल्पों और इसकी साध्यता पर विचार कर लिया गया है ?	—	हां उल्लेखित भूमि पर नहर निर्माण कार्य हेतु प्रस्तावित है.
(आठ)	परियोजना की कुल लागत	—	970.10 लाख
(नौ)	परियोजना से होने वाला लाभ	—	आस पास के कृषकों की सिंचाई सुविधा एवं आर्थिक उत्थान.
(दस)	प्रस्तावित सामाजिक समाघात की प्रतिपूर्ति के लिये उपाय तथा उस पर होने वाला संभावित व्यय.	—	उचित प्रतिकर तथा पारदर्शिता का अधिकार अधिनियम-2013 द्वारा दर्शायी गई तथा समय-समय पर छ.ग. शासन द्वारा बताई गई उपाय का अनुपालन किया जावेगा संभावित व्यय रुपये पांच लाख या वास्तविक व्यय जो भी अधिक हो.
(ग्यारह)	परियोजना द्वारा प्रभावित होने वाले अन्य घटक	—	निरंक

उपरोक्त भूमि अर्जन के संबंध में किसी व्यक्ति/संस्था या अन्य किसी व्यक्ति को कोई जानकारी/सुझाव देना हो, तो विहित तिथि/समय एवं स्थान पर दी जा सकेगी.

रायगढ़, दिनांक 11 जुलाई 2018

प्रारूप-एक
(नियम 11 देखिये)

क्रमांक/1620/11 अ-82/अ.वि.अ./भू-अर्जन/2017-18.—भूमि-अर्जन, पुनर्वासन एवं पुनर्व्यवस्थापन में उचित प्रतिकर तथा पारदर्शिता का अधिकार अधिनियम, 2013 की धारा 4 सहपठित नियम 7 के अंतर्गत नीचे अनुसूची में उल्लेखित भूमि का अर्जन लोक प्रयोजन हेतु राज्य सरकार द्वारा आशयित है, अर्थात् :—

जिला (1)	तहसील (2)	ग्राम/नगर (3)	क्षेत्रफल (4)	लोक प्रयोजन का विवरण (5)
रायगढ़	सारंगढ़	बरदुला	3.256 हे.	लीलार व्यपवर्तन नहर निर्माण

उपरोक्त उल्लेखित भूमि के अर्जन हेतु सामाजिक समाघात निर्धारण के अध्ययन हेतु जन सुनवाई दिनांक 08-08-2018 को समय 11.00 बजे से स्थान बरदुला पर नियत की गई है. प्रस्तावित भूमि अर्जन का अन्य विवरण निम्नानुसार है :—

(एक)	लोक प्रयोजन का संक्षिप्त विवरण	—	नहर निर्माण हेतु
(दो)	प्रत्यक्ष रूप से प्रभावित परिवारों की संख्या	—	38
(तीन)	अप्रत्यक्ष रूप से प्रभावित परिवारों की संख्या	—	78
(चार)	प्रभावित क्षेत्र में निजी मकानों तथा अन्य परिसम्पत्तियों की अनुमानित संख्या.	—	निरंक
(पांच)	प्रभावित क्षेत्र में शासकीय मकानों तथा अन्य परिसम्पत्तियों की अनुमानित संख्या.	—	निरंक
(छः)	क्या प्रस्तावित अर्जन न्यूनतम है ?	—	हां
(सात)	क्या संभव विकल्पों और इसकी साध्यता पर विचार कर लिया गया है ?	—	हां उल्लेखित भूमि पर नहर निर्माण कार्य हेतु प्रस्तावित है.
(आठ)	परियोजना की कुल लागत	—	970.10 लाख
(नौ)	परियोजना से होने वाला लाभ	—	आस पास के कृषकों की सिंचाई सुविधा एवं आर्थिक उत्थान.
(दस)	प्रस्तावित सामाजिक समाघात की प्रतिपूर्ति के लिये उपाय तथा उस पर होने वाला संभावित व्यय.	—	उचित प्रतिकर तथा पारदर्शिता का अधिकार अधिनियम-2013 द्वारा दर्शायी गई तथा समय-समय पर छ.ग. शासन द्वारा बताई गई उपाय का अनुपालन किया जावेगा संभावित व्यय रुपये पांच लाख या वास्तविक व्यय जो भी अधिक हो.
(ग्यारह)	परियोजना द्वारा प्रभावित होने वाले अन्य घटक	—	निरंक

उपरोक्त भूमि अर्जन के संबंध में किसी व्यक्ति/संस्था या अन्य किसी व्यक्ति को कोई जानकारी/सुझाव देना हो, तो विहित तिथि/समय एवं स्थान पर दी जा सकेगी.

रायगढ़, दिनांक 11 जुलाई 2018

प्रारूप-एक
(नियम 11 देखिये)

क्रमांक/1620/12 अ-82/अ.वि.अ./भू-अर्जन/2017-18.—भूमि-अर्जन, पुनर्वासन एवं पुनर्व्यवस्थापन में उचित प्रतिकर तथा पारदर्शिता का अधिकार अधिनियम, 2013 की धारा 4 सहपठित नियम 7 के अंतर्गत नीचे अनुसूची में उल्लेखित भूमि का अर्जन लोक प्रयोजन हेतु राज्य सरकार द्वारा आशयित है, अर्थात् :—

जिला (1)	तहसील (2)	ग्राम/नगर (3)	क्षेत्रफल (4)	लोक प्रयोजन का विवरण (5)
रायगढ़	सारंगढ़	गन्तुली बड़े	0.771 हे.	लीलार व्यपवर्तन नहर निर्माण

उपरोक्त उल्लेखित भूमि के अर्जन हेतु सामाजिक समाघात निर्धारण के अध्ययन हेतु जन सुनवाई दिनांक 09-08-2018 को समय 11.00 बजे से स्थान गन्तुली बड़े पर नियत की गई है. प्रस्तावित भूमि अर्जन का अन्य विवरण निम्नानुसार है :—

(एक)	लोक प्रयोजन का संक्षिप्त विवरण	—	नहर निर्माण हेतु
(दो)	प्रत्यक्ष रूप से प्रभावित परिवारों की संख्या	—	16
(तीन)	अप्रत्यक्ष रूप से प्रभावित परिवारों की संख्या	—	20
(चार)	प्रभावित क्षेत्र में निजी मकानों तथा अन्य परिसम्पत्तियों की अनुमानित संख्या.	—	निरंक
(पांच)	प्रभावित क्षेत्र में शासकीय मकानों तथा अन्य परिसम्पत्तियों की अनुमानित संख्या.	—	निरंक
(छः)	क्या प्रस्तावित अर्जन न्यूनतम है ?	—	हां
(सात)	क्या संभव विकल्पों और इसकी साध्यता पर विचार कर लिया गया है ?	—	हां उल्लेखित भूमि पर नहर निर्माण कार्य हेतु प्रस्तावित है.
(आठ)	परियोजना की कुल लागत	—	970.10 लाख
(नौ)	परियोजना से होने वाला लाभ	—	आस पास के कृषकों की सिंचाई सुविधा एवं आर्थिक उत्थान.
(दस)	प्रस्तावित सामाजिक समाघात की प्रतिपूर्ति के लिये उपाय तथा उस पर होने वाला संभावित व्यय.	—	उचित प्रतिकर तथा पारदर्शिता का अधिकार अधिनियम-2013 द्वारा दर्शायी गई तथा समय-समय पर छ.ग. शासन द्वारा बताई गई उपाय का अनुपालन किया जावेगा संभावित व्यय रुपये पांच लाख या वास्तविक व्यय जो भी अधिक हो.
(ग्यारह)	परियोजना द्वारा प्रभावित होने वाले अन्य घटक	—	निरंक

उपरोक्त भूमि अर्जन के संबंध में किसी व्यक्ति/संस्था या अन्य किसी व्यक्ति को कोई जानकारी/सुझाव देना हो, तो विहित तिथि/समय एवं स्थान पर दी जा सकेगी.

रायगढ़, दिनांक 11 जुलाई 2018

प्रारूप-एक
(नियम 11 देखिये)

क्रमांक/1620/13 अ-82/अ.वि.अ./भू-अर्जन/2017-18.—भूमि-अर्जन, पुनर्वासन एवं पुनर्व्यवस्थापन में उचित प्रतिकर तथा पारदर्शिता का अधिकार अधिनियम, 2013 की धारा 4 सहपठित नियम 7 के अंतर्गत नीचे अनुसूची में उल्लेखित भूमि का अर्जन लोक प्रयोजन हेतु राज्य सरकार द्वारा आशयित है, अर्थात् :—

जिला (1)	तहसील (2)	ग्राम/नगर (3)	क्षेत्रफल (4)	लोक प्रयोजन का विवरण (5)
रायगढ़	सारंगढ़	गन्तुली छोटे	8.114 हे.	लीलार व्यपवर्तन नहर निर्माण

उपरोक्त उल्लेखित भूमि के अर्जन हेतु सामाजिक समाघात निर्धारण के अध्ययन हेतु जन सुनवाई दिनांक 09-08-2018 को समय 11.00 बजे से स्थान गन्तुली बड़े पर नियत की गई है. प्रस्तावित भूमि अर्जन का अन्य विवरण निम्नानुसार है :—

(एक)	लोक प्रयोजन का संक्षिप्त विवरण	—	नहर निर्माण हेतु
(दो)	प्रत्यक्ष रूप से प्रभावित परिवारों की संख्या	—	02
(तीन)	अप्रत्यक्ष रूप से प्रभावित परिवारों की संख्या	—	04
(चार)	प्रभावित क्षेत्र में निजी मकानों तथा अन्य परिसम्पत्तियों की अनुमानित संख्या.	—	निरंक
(पांच)	प्रभावित क्षेत्र में शासकीय मकानों तथा अन्य परिसम्पत्तियों की अनुमानित संख्या.	—	निरंक
(छः)	क्या प्रस्तावित अर्जन न्यूनतम है ?	—	हां
(सात)	क्या संभव विकल्पों और इसकी साध्यता पर विचार कर लिया गया है ?	—	हां उल्लेखित भूमि पर नहर निर्माण कार्य हेतु प्रस्तावित है.
(आठ)	परियोजना की कुल लागत	—	970.10 लाख
(नौ)	परियोजना से होने वाला लाभ	—	आस पास के कृषकों की सिंचाई सुविधा एवं आर्थिक उत्थान.
(दस)	प्रस्तावित सामाजिक समाघात की प्रतिपूर्ति के लिये उपाय तथा उस पर होने वाला संभावित व्यय.	—	उचित प्रतिकर तथा पारदर्शिता का अधिकार अधिनियम-2013 द्वारा दर्शायी गई तथा समय-समय पर छ.ग. शासन द्वारा बताई गई उपाय का अनुपालन किया जावेगा संभावित व्यय रुपये पांच लाख या वास्तविक व्यय जो भी अधिक हो.
(ग्यारह)	परियोजना द्वारा प्रभावित होने वाले अन्य घटक	—	निरंक

उपरोक्त भूमि अर्जन के संबंध में किसी व्यक्ति/संस्था या अन्य किसी व्यक्ति को कोई जानकारी/सुझाव देना हो, तो विहित तिथि/समय एवं स्थान पर दी जा सकेगी.

छत्तीसगढ़ के राज्यपाल के नाम से तथा आदेशानुसार,
शम्मी आबिदी, कलेक्टर एवं पदेन उप-सचिव.

कार्यालय, कलेक्टर, जिला बेमेतरा, छत्तीसगढ़ एवं पदेन संयुक्त सचिव, छत्तीसगढ़ शासन, राजस्व एवं आपदा प्रबंधन विभाग

बेमेतरा, दिनांक 15 जून 2018

क्रमांक/01/अ-82/2017-18.—चूंकि राज्य शासन को यह प्रतीत होता है कि इससे संलग्न अनुसूची के खाने (1) से (4) में वर्णित भूमि की अनुसूची के खाने (6) में उसके सामने दिये गये सार्वजनिक प्रयोजन के लिये आवश्यकता है अथवा आवश्यकता पड़ने की संभावना है. अत: भूमि अर्जन, पुनर्वासन और पुनर्व्यवस्थापन में उचित प्रतिकर और पारदर्शिता का अधिकार अधिनियम, 2013 (जिसे एतद् पश्चात् अधिनियम 2013 कहा जायेगा) की धारा 11 की उप-धारा (1) के उपबंधों के अनुसार सभी संबंधित व्यक्तियों को इस आशय की सूचना दी जाती है कि राज्य शासन एतद्द्वारा अनुसूची के खाने (5) में उल्लेखित प्राधिकारी को उक्त भूमि के संबंध में धारा 12 के अंतर्गत दी गयी शक्तियों का प्रयोग करने के लिए प्राधिकृत करता है :—

अनुसूची

भूमि का वर्णन				धारा 12 द्वारा प्राधिकृत अधिकारी	सार्वजनिक प्रयोजन का वर्णन
जिला	तहसील	नगर/ग्राम	लगभग क्षेत्रफल (हे. में)		
(1)	(2)	(3)	(4)	(5)	(6)
बेमेतरा	बेरला	सिंघौरी प.ह.नं. 10	0.85	अनुविभागीय अधिकारी (रा.) एवं भू-अर्जन अधिकारी बेरला, (छ.ग.)	सिरसा जलाशय के डूबान में प्रभावित ग्राम-सिंघौरी.

भूमि का नक्शा (प्लान) का निरीक्षण अनुविभागीय अधिकारी (राजस्व), बेरला के कार्यालय में किया जा सकता है.

छत्तीसगढ़ के राज्यपाल के नाम से तथा आदेशानुसार,
महादेव कावरे, कलेक्टर एवं पदेन संयुक्त सचिव.

कार्यालय, कलेक्टर, जिला रायगढ़, छत्तीसगढ़ एवं पदेन उप-सचिव, छत्तीसगढ़ शासन, राजस्व एवं आपदा प्रबंधन विभाग

रायगढ़, दिनांक 13 जून 2018

भू-अर्जन प्रकरण क्रमांक 57/अ-82/2017-18.—चूंकि राज्य शासन को यह प्रतीत होता है कि इससे संलग्न अनुसूची के खाने (1) से (4) में वर्णित भूमि की अनुसूची के खाने (6) में उसके सामने दिये गये सार्वजनिक प्रयोजन के लिये आवश्यकता है अथवा आवश्यकता पड़ने की संभावना है. अत: भूमि अर्जन, पुनर्वासन और पुनर्व्यवस्थापन में उचित प्रतिकर और पारदर्शिता का अधिकार अधिनियम, 2013 (जिसे एतद् पश्चात् अधिनियम 2013 कहा जायेगा) की धारा 11 की उप-धारा (1) के उपबंधों के अनुसार सभी संबंधित व्यक्तियों को इस आशय की सूचना दी जाती है कि राज्य शासन एतद्द्वारा अनुसूची के खाने (5) में उल्लेखित प्राधिकारी को उक्त भूमि के संबंध में धारा 12 के अंतर्गत दी गयी शक्तियों का प्रयोग करने के लिए प्राधिकृत करता है :—

अनुसूची

भूमि का वर्णन				धारा 12 द्वारा प्राधिकृत अधिकारी	सार्वजनिक प्रयोजन का वर्णन
जिला	तहसील	नगर/ग्राम	लगभग क्षेत्रफल (हे. में)		
(1)	(2)	(3)	(4)	(5)	(6)
रायगढ़	पुसौर	औरदा प.ह.नं. 13	1.253	कार्यपालन अभियंता, केलो परि-योजना सर्वेक्षण संभाग, रायगढ़.	झारमुड़ा शाखा नहर के झारमुड़ा लघु नहर हेतु भू-अर्जन.

भूमि का नक्शा (प्लान) अनुविभागीय अधिकारी (राजस्व), रायगढ़ के कार्यालय में देखा जा सकता है.

रायगढ़, दिनांक 30 जून 2018

भू-अर्जन प्रकरण क्रमांक 58/अ-82/2017-18.—चूंकि राज्य शासन को यह प्रतीत होता है कि इससे संलग्न अनुसूची के खाने (1) से (4) में वर्णित भूमि की अनुसूची के खाने (6) में उसके सामने दिये गये सार्वजनिक प्रयोजन के लिये आवश्यकता है अथवा आवश्यकता पड़ने की संभावना है. अतः भूमि अर्जन, पुनर्वासन और पुनर्व्यवस्थापन में उचित प्रतिकर और पारदर्शिता का अधिकार अधिनियम, 2013 (जिसे एतद् पश्चात् अधिनियम 2013 कहा जायेगा) की धारा 11 की उप-धारा (1) के उपबंधों के अनुसार सभी संबंधित व्यक्तियों को इस आशय की सूचना दी जाती है कि राज्य शासन एतद्द्वारा अनुसूची के खाने (5) में उल्लेखित प्राधिकारी को उक्त भूमि के संबंध में धारा 12 के अंतर्गत दी गयी शक्तियों का प्रयोग करने के लिए प्राधिकृत करता है :—

अनुसूची

भूमि का वर्णन				धारा 12 द्वारा प्राधिकृत अधिकारी	सार्वजनिक प्रयोजन का वर्णन
जिला	तहसील	नगर/ग्राम	लगभग क्षेत्रफल (हे. में)		
(1)	(2)	(3)	(4)	(5)	(6)
रायगढ़	पुसौर	कोतासुरा प.ह.नं. 26	0.587	कार्यपालन अभियंता, केलो परियोजना निर्माण संभाग लाखा अ.मु. खरसिया, जिला-रायगढ़ (छ.ग.).	केलो परियोजना के अंतर्गत छिछोर उमारिया वितरक नहर, टिनमिनी माईनर एवं ठाकुरपाली माईनर नहर निर्माण हेतु भू-अर्जन.

भूमि का नक्शा (प्लान) अनुविभागीय अधिकारी (राजस्व), रायगढ़ के कार्यालय में देखा जा सकता है.

छत्तीसगढ़ के राज्यपाल के नाम से तथा आदेशानुसार,
शम्मी आबिदी, कलेक्टर एवं पदेन उप-सचिव.

कार्यालय, कलेक्टर, जिला कोण्डागांव, छत्तीसगढ़ एवं पदेन उप सचिव, छत्तीसगढ़ शासन, राजस्व एवं आपदा प्रबंधन विभाग

कोंडागांव, दिनांक 29 जून 2018

क्रमांक/1798/अ-82/2017-18.—चूंकि राज्य शासन को इस बात का समाधान हो गया है कि नीचे दी गई अनुसूची के पद (1) में वर्णित भूमि की अनुसूची के पद (2) में उल्लेखित सार्वजनिक प्रयोजन के लिए आवश्यकता है. अतः भूमि अर्जन, पुनर्वासन और पुनर्व्यवस्थापन में उचित प्रतिकर और पारदर्शिता का अधिकार अधिनियम, 2013 (जिसे एतद् पश्चात् अधिनियम 2013 कहा जावेगा) की धारा 19 की उपधारा (1) के अन्तर्गत इसके द्वारा यह घोषित किया जाता है कि उक्त भूमि की उक्त प्रयोजन के लिए आवश्यकता है :—

अनुसूची

(1) भूमि का वर्णन-
- (क) जिला-कोण्डागांव
- (ख) तहसील-माकड़ी
- (ग) नगर/ग्राम-मारागांव
- (घ) लगभग क्षेत्रफल-0.166 हेक्टेयर

	खसरा नम्बर	रकबा (हेक्टेयर में)
	(1)	(2)
	2/6	0.166
योग	01	0.166

(2) सार्वजनिक प्रयोजन जिसके लिए आवश्यकता है-शामपुर-रांधना मार्ग में सेतु निर्माण पहुंच मार्ग हेतु.

(3) भूमि का नक्शा (प्लान) का निरीक्षण अनुविभागीय अधिकारी (राजस्व), कोंडागांव के कार्यालय में किया जा सकता है.

छत्तीसगढ़ के राज्यपाल के नाम से तथा आदेशानुसार,
नीलकंठ टेकाम, कलेक्टर एवं पदेन उप-सचिव.

कार्यालय, कलेक्टर, जिला रायगढ़, छत्तीसगढ़ एवं पदेन उप सचिव, छत्तीसगढ़ शासन, राजस्व एवं आपदा प्रबंधन विभाग

रायगढ़, दिनांक 14 जून 2018

भू-अर्जन प्रकरण क्रमांक 13/अ-82/17-18.—चूंकि राज्य शासन को इस बात का समाधान हो गया है कि नीचे दी गई अनुसूची के पद (1) में वर्णित भूमि की अनुसूची के पद (2) में उल्लेखित सार्वजनिक प्रयोजन के लिए आवश्यकता है. अत: भूमि अर्जन, पुनर्वासन और पुनर्व्यवस्थापन में उचित प्रतिकर और पारदर्शिता का अधिकार अधिनियम, 2013 (जिसे एतद् पश्चात् अधिनियम 2013 कहा जावेगा) की धारा 19 के अन्तर्गत इसके द्वारा यह घोषित किया जाता है कि उक्त भूमि की उक्त प्रयोजन के लिए आवश्यकता है :—

अनुसूची

(1) भूमि का वर्णन-
- (क) जिला-रायगढ़
- (ख) तहसील-तमनार
- (ग) नगर/ग्राम-केराखोल
- (घ) लगभग क्षेत्रफल-1.583 हेक्टेयर

	खसरा नम्बर	रकबा (हेक्टेयर में)
	(1)	(2)
	92/3	0.202
	93/2	0.056
	118/1	0.925
	118/2	0.320
	131/8	0.080
योग	05	1.583

(2) सार्वजनिक प्रयोजन जिसके लिए आवश्यकता है-एन.टी.पी.सी. तिलाईपाली परियोजना अंतर्गत रेल लाईन निर्माण हेतु भू-अर्जन.

(3) भूमि का नक्शा (प्लान) का निरीक्षण अनुविभागीय अधिकारी (रा.), घरघोड़ा के कार्यालय में किया जा सकता है.

रायगढ़, दिनांक 14 जून 2018

भू-अर्जन प्रकरण क्रमांक 14/अ-82/17-18.—चूंकि राज्य शासन को इस बात का समाधान हो गया है कि नीचे दी गई अनुसूची के पद (1) में वर्णित भूमि की अनुसूची के पद (2) में उल्लेखित सार्वजनिक प्रयोजन के लिए आवश्यकता है. अत: भूमि अर्जन, पुनर्वासन और पुनर्व्यवस्थापन में उचित प्रतिकर और पारदर्शिता का अधिकार अधिनियम, 2013 (जिसे एतद् पश्चात् अधिनियम 2013 कहा जावेगा) की धारा 19 के अन्तर्गत इसके द्वारा यह घोषित किया जाता है कि उक्त भूमि की उक्त प्रयोजन के लिए आवश्यकता है :—

अनुसूची

(1) भूमि का वर्णन-
- (क) जिला-रायगढ़
- (ख) तहसील-तमनार
- (ग) नगर/ग्राम-मौहापाली
- (घ) लगभग क्षेत्रफल-0.513 हेक्टेयर

	खसरा नम्बर	रकबा (हेक्टेयर में)
	(1)	(2)
	252/4 क	0.129
	252/4 ख	0.121
	295/7	0.061
	295/1 ग	0.012
	295/1 ख	0.020
	296/2	0.081
	257/1	0.020
	296/5	0.057
	294	0.012
योग	09	0.513

(2) सार्वजनिक प्रयोजन जिसके लिए आवश्यकता है-एन.टी.पी.सी. तिलाईपाली परियोजना अंतर्गत रेल लाईन निर्माण हेतु भू-अर्जन.

(3) भूमि का नक्शा (प्लान) का निरीक्षण अनुविभागीय अधिकारी (रा.), घरघोड़ा के कार्यालय में किया जा सकता है.

रायगढ़, दिनांक 14 जून 2018

भू-अर्जन प्रकरण क्रमांक 15/अ-82/17-18.—चूंकि राज्य शासन को इस बात का समाधान हो गया है कि नीचे दी गई अनुसूची के पद (1) में वर्णित भूमि की अनुसूची के पद (2) में उल्लेखित सार्वजनिक प्रयोजन के लिए आवश्यकता है. अत: भूमि अर्जन, पुनर्वासन और पुनर्व्यवस्थापन में उचित प्रतिकर और पारदर्शिता का अधिकार अधिनियम, 2013 (जिसे एतद् पश्चात् अधिनियम 2013 कहा जावेगा) की धारा 19 के अन्तर्गत इसके द्वारा यह घोषित किया जाता है कि उक्त भूमि की उक्त प्रयोजन के लिए आवश्यकता है :—

अनुसूची

(1) भूमि का वर्णन-
- (क) जिला-रायगढ़
- (ख) तहसील-तमनार
- (ग) नगर/ग्राम-जरेकेला
- (घ) लगभग क्षेत्रफल-0.709 हेक्टेयर

	खसरा नम्बर	रकबा (हेक्टेयर में)
	(1)	(2)
	309/1	0.235
	408/1	0.203
	652/2	0.032
	655/9 क	0.040
	655/9 ख	0.142
	407/1, 407/2, 407/3, 407/4, 407/5	0.057
योग	10	0.709

(2) सार्वजनिक प्रयोजन जिसके लिए आवश्यकता है-एन.टी.पी.सी. तिलाईपाली परियोजना अंतर्गत रेल लाईन निर्माण हेतु भू-अर्जन.

(3) भूमि का नक्शा (प्लान) का निरीक्षण अनुविभागीय अधिकारी (रा.), घरघोड़ा के कार्यालय में किया जा सकता है.

रायगढ़, दिनांक 14 जून 2018

भू-अर्जन प्रकरण क्रमांक 16/अ-82/17-18.—चूंकि राज्य शासन को इस बात का समाधान हो गया है कि नीचे दी गई अनुसूची के पद (1) में वर्णित भूमि की अनुसूची के पद (2) में उल्लेखित सार्वजनिक प्रयोजन के लिए आवश्यकता है. अत: भूमि अर्जन, पुनर्वासन और पुनर्व्यवस्थापन में उचित प्रतिकर और पारदर्शिता का अधिकार अधिनियम, 2013 (जिसे एतद् पश्चात् अधिनियम 2013 कहा जावेगा) की धारा 19 के अन्तर्गत इसके द्वारा यह घोषित किया जाता है कि उक्त भूमि की उक्त प्रयोजन के लिए आवश्यकता है :—

अनुसूची

(1) भूमि का वर्णन-
- (क) जिला-रायगढ़
- (ख) तहसील-तमनार
- (ग) नगर/ग्राम-नूनदरहा
- (घ) लगभग क्षेत्रफल-1.283 हेक्टेयर

	खसरा नम्बर	रकबा (हेक्टेयर में)
	(1)	(2)
	317/1	0.505
	164/3	0.081
	164/1	0.040
	348/19	0.109
	385/5	0.041
	385/5	0.041
	385/6	0.041
	369/1	0.030
	369/2	0.040
	369/3	0.080
	371/2	0.041
	371/3	0.041
	371/4	0.041
	371/5	0.041
	371/6	0.041
	307/20	0.032
योग	17	1.283

(2) सार्वजनिक प्रयोजन जिसके लिए आवश्यकता है-एन.टी.पी.सी. तिलाईपाली परियोजना अंतर्गत रेल लाईन निर्माण हेतु.

(3) भूमि का नक्शा (प्लान) का निरीक्षण अनुविभागीय अधिकारी (रा.), घरघोड़ा के कार्यालय में किया जा सकता है.

रायगढ़, दिनांक 14 जून 2018

भू-अर्जन प्रकरण क्रमांक 17/अ-82/17-18.—चूंकि राज्य शासन को इस बात का समाधान हो गया है कि नीचे दी गई अनुसूची के पद (1) में वर्णित भूमि की अनुसूची के पद (2) में उल्लेखित सार्वजनिक प्रयोजन के लिए आवश्यकता है. अत: भूमि अर्जन, पुनर्वासन और पुनर्व्यवस्थापन में उचित प्रतिकर और पारदर्शिता का अधिकार अधिनियम, 2013 (जिसे एतद् पश्चात् अधिनियम 2013 कहा जावेगा) की धारा 19 के अन्तर्गत इसके द्वारा यह घोषित किया जाता है कि उक्त भूमि की उक्त प्रयोजन के लिए आवश्यकता है :—

अनुसूची

(1) भूमि का वर्णन-
- (क) जिला-रायगढ़
- (ख) तहसील-घरघोड़ा
- (ग) नगर/ग्राम-कंचनपुर
- (घ) लगभग क्षेत्रफल-0.355 हेक्टेयर

	खसरा नम्बर	रकबा (हेक्टेयर में)
	(1)	(2)
	701/1	0.355
योग	01	0.355

(2) सार्वजनिक प्रयोजन जिसके लिए आवश्यकता है-एन.टी.पी.सी. तिलाईपाली परियोजना अंतर्गत रेल लाईन निर्माण हेतु.

(3) भूमि का नक्शा (प्लान) का निरीक्षण अनुविभागीय अधिकारी (रा.), घरघोड़ा के कार्यालय में किया जा सकता है.

रायगढ़, दिनांक 14 जून 2018

भू-अर्जन प्रकरण क्रमांक 18/अ-82/17-18.—चूंकि राज्य शासन को इस बात का समाधान हो गया है कि नीचे दी गई अनुसूची के पद (1) में वर्णित भूमि की अनुसूची के पद (2) में उल्लेखित सार्वजनिक प्रयोजन के लिए आवश्यकता है. अत: भूमि अर्जन, पुनर्वासन और पुनर्व्यवस्थापन में उचित प्रतिकर और पारदर्शिता का अधिकार अधिनियम, 2013 (जिसे एतद् पश्चात् अधिनियम 2013 कहा जावेगा) की धारा 19 के अन्तर्गत इसके द्वारा यह घोषित किया जाता है कि उक्त भूमि की उक्त प्रयोजन के लिए आवश्यकता है :—

अनुसूची

(1) भूमि का वर्णन-
- (क) जिला-रायगढ़
- (ख) तहसील-तमनार
- (ग) नगर/ग्राम-बनाई
- (घ) लगभग क्षेत्रफल-0.830 हेक्टेयर

	खसरा नम्बर	रकबा (हेक्टेयर में)
	(1)	(2)
	694/3	0.049
	681/4	0.190
	904/1	0.065
	692/1	0.526
योग	04	0.830

(2) सार्वजनिक प्रयोजन जिसके लिए आवश्यकता है-एन.टी.पी.सी. तिलाईपाली परियोजना अंतर्गत रेल लाईन निर्माण हेतु.

(3) भूमि का नक्शा (प्लान) का निरीक्षण अनुविभागीय अधिकारी (रा.), घरघोड़ा के कार्यालय में किया जा सकता है.

रायगढ़, दिनांक 14 जून 2018

भू-अर्जन प्रकरण क्रमांक 19/अ-82/17-18.—चूंकि राज्य शासन को इस बात का समाधान हो गया है कि नीचे दी गई अनुसूची के पद (1) में वर्णित भूमि की अनुसूची के पद (2) में उल्लेखित सार्वजनिक प्रयोजन के लिए आवश्यकता है. अत: भूमि अर्जन, पुनर्वासन और पुनर्व्यवस्थापन में उचित प्रतिकर और पारदर्शिता का अधिकार अधिनियम, 2013 (जिसे एतद् पश्चात् अधिनियम 2013 कहा जावेगा) की धारा 19 के अन्तर्गत इसके द्वारा यह घोषित किया जाता है कि उक्त भूमि की उक्त प्रयोजन के लिए आवश्यकता है :—

अनुसूची

(1) भूमि का वर्णन-
- (क) जिला-रायगढ़
- (ख) तहसील-तमनार
- (ग) नगर/ग्राम-डोलेसरा
- (घ) लगभग क्षेत्रफल-0.120 हेक्टेयर

	खसरा नम्बर	रकबा (हेक्टेयर में)
	(1)	(2)
	18/5/1	0.051
	69/2	0.069
योग	02	0.120

(2) सार्वजनिक प्रयोजन जिसके लिए आवश्यकता है-एन.टी.पी.सी. तिलाईपाली परियोजना अंतर्गत रेल लाईन निर्माण हेतु.

(3) भूमि का नक्शा (प्लान) का निरीक्षण अनुविभागीय अधिकारी (रा.), घरघोड़ा के कार्यालय में किया जा सकता है.

रायगढ़, दिनांक 14 जून 2018

भू-अर्जन प्रकरण क्रमांक 20/अ-82/17-18.—चूंकि राज्य शासन को इस बात का समाधान हो गया है कि नीचे दी गई अनुसूची के पद (1) में वर्णित भूमि की अनुसूची के पद (2) में उल्लेखित सार्वजनिक प्रयोजन के लिए आवश्यकता है. अतः भूमि अर्जन, पुनर्वासन और पुनर्व्यवस्थापन में उचित प्रतिकर और पारदर्शिता का अधिकार अधिनियम, 2013 (जिसे एतद् पश्चात् अधिनियम 2013 कहा जावेगा) की धारा 19 के अन्तर्गत इसके द्वारा यह घोषित किया जाता है कि उक्त भूमि की उक्त प्रयोजन के लिए आवश्यकता है :—

अनुसूची

(1) भूमि का वर्णन-
- (क) जिला-रायगढ़
- (ख) तहसील-तमनार
- (ग) नगर/ग्राम-बासनपाली
- (घ) लगभग क्षेत्रफल-0.877 हेक्टेयर

	खसरा नम्बर	रकबा (हेक्टेयर में)
	(1)	(2)
	138/1	0.238
	332/2	0.020
	460/4	0.137
	460/5	0.057
	460/6	0.304
	460/7	0.008
	460/8	0.113
योग	07	0.877

(2) सार्वजनिक प्रयोजन जिसके लिए आवश्यकता है-एन.टी.पी.सी. तिलाईपाली परियोजना अंतर्गत रेल लाईन निर्माण हेतु.

(3) भूमि का नक्शा (प्लान) का निरीक्षण अनुविभागीय अधिकारी (रा.), घरघोड़ा के कार्यालय में किया जा सकता है.

रायगढ़, दिनांक 12 जुलाई 2018

भू-अर्जन प्रकरण क्रमांक 02/अ-82/15-16.—चूंकि राज्य शासन को इस बात का समाधान हो गया है कि नीचे दी गई अनुसूची के पद (1) में वर्णित भूमि की अनुसूची के पद (2) में उल्लेखित सार्वजनिक प्रयोजन के लिए आवश्यकता है. अतः भूमि अर्जन, पुनर्वासन और पुनर्व्यवस्थापन में उचित प्रतिकर और पारदर्शिता का अधिकार अधिनियम, 2013 (जिसे एतद् पश्चात् अधिनियम 2013 कहा जावेगा) की धारा 19 के अन्तर्गत इसके द्वारा यह घोषित किया जाता है कि उक्त भूमि की उक्त प्रयोजन के लिए आवश्यकता है :—

अनुसूची

(1) भूमि का वर्णन-
- (क) जिला-रायगढ़
- (ख) तहसील-पुसौर
- (ग) नगर/ग्राम-छपोरा
- (घ) लगभग क्षेत्रफल-13.299 हेक्टेयर

खसरा नम्बर	रकबा (हेक्टेयर में)
(1)	(2)
92/2क/1	0.129
97/2क	0.100
97/3क	0.609
97/4क	0.301
141/1	0.211
260/1क	0.352
260/2क	0.306
420/2क	0.078
420/3क	0.036
420/7क	0.011
421/3क	0.088
468/1क/2	0.213
525/6	0.109
534/2	0.065
541/1	0.105
541/1क	0.048
546/1क	0.065
546/1ख	0.202
573/1क	0.010
580/1	0.522
580/2	0.101
581/1	0.101
581/2	0.215
583	0.061
584	0.299
623/2क	0.096
633/1क	0.093
662/1ख	0.117
662/1ग	0.097
662/2ग/1	0.024
689/6	0.030
699/2ख	0.405
699/2ग	0.405

	(1)	(2)
	699/2घ	0.405
	699/2ङ	0.405
	699/2च	0.165
	709/2	0.337
	710	0.069
	711/3	0.291
	713/2	0.202
	713/3	0.348
	714/2	0.049
	716	0.170
	717	0.429
	725/1क	0.121
	726/1	0.267
	726/3	0.628
	726/4	0.101
	727/1	0.496
	727/3क	0.405
	728/1क	0.154
	729/1	0.113
	730/2	0.052
	743/2	0.206
	744	0.955
	745/3	0.061
	745/4	0.020
	745/5	0.142
	745/6	0.101
	746	0.101
	747/2	0.105
	748	0.223
	801/1	0.312
	823/1	0.045
	828/2क	0.136
	846/1घ	0.041
	846/1च	0.040
योग	67	13.299

(2) सार्वजनिक प्रयोजन जिसके लिए आवश्यकता है-औद्योगिक प्रयोजन हेतु.

(3) भूमि का नक्शा (प्लान) का निरीक्षण अनुविभागीय अधिकारी (रा.), रायगढ़ के कार्यालय में किया जा सकता है.

छत्तीसगढ़ के राज्यपाल के नाम से तथा आदेशानुसार,
शम्मी आबिदी, कलेक्टर एवं पदेन उप-सचिव.

कार्यालय, कलेक्टर, जिला बिलासपुर, छत्तीसगढ़ एवं पदेन उप सचिव, छत्तीसगढ़ शासन, राजस्व एवं आपदा प्रबंधन विभाग

बिलासपुर, दिनांक 15 जून 2018

क्रमांक 81/अ-82/2017-18.—चूंकि राज्य शासन को इस बात का समाधान हो गया है कि नीचे दी गई अनुसूची के पद (1) में वर्णित भूमि की अनुसूची के पद (2) में उल्लेखित सार्वजनिक प्रयोजन के लिए आवश्यकता है. अतः भूमि अर्जन, पुनर्वासन और पुनर्व्यवस्थापन में उचित प्रतिकर और पारदर्शिता का अधिकार अधिनियम, 2013 (जिसे एतद् पश्चात् अधिनियम 2013 कहा जावेगा) की धारा 19 के अन्तर्गत इसके द्वारा यह घोषित किया जाता है कि उक्त भूमि की उक्त प्रयोजन के लिए आवश्यकता है :—

अनुसूची

(1) भूमि का वर्णन-
- (क) जिला-बिलासपुर
- (ख) तहसील-तखतपुर
- (ग) नगर/ग्राम-घुटकु (पूरक)
- (घ) लगभग क्षेत्रफल-3.534 हेक्टेयर

खसरा नम्बर (1)	रकबा (हेक्टेयर में) (2)
256	0.101
2545/1	0.101
272	0.032
282/1	0.040
273/1	0.024
283	0.158
282/2	0.113
286	0.381
2538	0.045
2537/1	0.045
2543	0.073
2555	0.134
2544	0.154
2553	0.154
2556/1	0.045
2556/3	0.069
2557/4 2557/5	0.146
2559/2	0.008

(1)	(2)
2765/1	0.121
2831/2	0.085
2834, 3826/2	0.069
2840/2	0.101
2840/1	0.081
2809/4	0.121
2809/3	0.097
2809/2	0.012
2810/2	0.251
2810/3	0.040
2832	0.138
2803/2	0.089
2802	0.053
2836/3	0.113
3090	0.020
1390	0.142
2560	0.178
योग 37	3.534

(2) सार्वजनिक प्रयोजन जिसके लिए आवश्यकता है-अरपा भौंसाझार बैराज परियोजना के अन्तर्गत माईनर नहर निर्माण हेतु.

(3) भूमि का नक्शा (प्लान) का निरीक्षण अनुविभागीय अधिकारी (राजस्व), कोटा के कार्यालय में किया जा सकता है.

बिलासपुर, दिनांक 26 जून 2018

क्रमांक 80/अ-82/2017-18.—चूंकि राज्य शासन को इस बात का समाधान हो गया है कि नीचे दी गई अनुसूची के पद (1) में वर्णित भूमि की अनुसूची के पद (2) में उल्लेखित सार्वजनिक प्रयोजन के लिए आवश्यकता है. अत: भूमि अर्जन, पुनर्वासन और पुनर्व्यवस्थापन में उचित प्रतिकर और पारदर्शिता का अधिकार अधिनियम, 2013 (जिसे एतद् पश्चात् अधिनियम 2013 कहा जावेगा) की धारा 19 के अन्तर्गत इसके द्वारा यह घोषित किया जाता है कि उक्त भूमि की उक्त प्रयोजन के लिए आवश्यकता है :—

अनुसूची

(1) भूमि का वर्णन-
- (क) जिला-बिलासपुर
- (ख) तहसील-तखतपुर
- (ग) नगर/ग्राम-छतौना
- (घ) लगभग क्षेत्रफल-2.963 हेक्टेयर

खसरा नम्बर (1)	रकबा (हेक्टेयर में) (2)
1/1	0.040
1/5	0.085
1/6	0.105
1/8	0.138
1/3	0.097
23/1	0.142
24/1	0.053
25	0.065
33	0.045
34/2	0.016
31/2	0.097
32	0.057
1243	0.016
34/1	0.008
31/1	0.028
46/16	0.032
46/12	0.069
46/14	0.097
73/1	0.024
46/7	0.040
46/17	0.049
46/5	0.036
46/6	0.053
46/9	0.105
66/2	0.113
65/1	0.089
73/2	0.049
74/1, 74/6	0.032
74/2	0.077
78, 79/4	0.024
74/6	0.020
75/1	0.113
75/2	0.049
96/1	0.012
96/2	0.028
96/3	0.028
94/2	0.036
95	0.049
102/1	0.008
102/2	0.045
108/2	0.057
103/1	0.016
103/2	0.016
104	0.045
105/2	0.045

	(1)	(2)
	221	0.040
	218/2	0.045
	219/10	0.049
	218/3	0.057
	225/1	0.081
	216	0.053
	215	0.024
	214/1	0.049
	1000/3	0.032
	1000/6	0.028
	1000/1	0.004
	1003/1	0.053
योग	59	2.963

(2) सार्वजनिक प्रयोजन जिसके लिए आवश्यकता है-अरपा भैंसाझार बैराज परियोजना के अन्तर्गत माईनर नहर निर्माण हेतु.

(3) भूमि का नक्शा (प्लान) का निरीक्षण अनुविभागीय अधिकारी (राजस्व), कोटा के कार्यालय में किया जा सकता है.

बिलासपुर, दिनांक 29 जून 2018

क्रमांक 54/अ-82/2017-18.—चूंकि राज्य शासन को इस बात का समाधान हो गया है कि नीचे दी गई अनुसूची के पद (1) में वर्णित भूमि की अनुसूची के पद (2) में उल्लेखित सार्वजनिक प्रयोजन के लिए आवश्यकता है. अतः भूमि अर्जन, पुनर्वासन और पुनर्व्यवस्थापन में उचित प्रतिकर और पारदर्शिता का अधिकार अधिनियम, 2013 (जिसे एतद् पश्चात् अधिनियम 2013 कहा जावेगा) की धारा 19 के अन्तर्गत इसके द्वारा यह घोषित किया जाता है कि उक्त भूमि की उक्त प्रयोजन के लिए आवश्यकता है :—

अनुसूची

(1) भूमि का वर्णन-
(क) जिला-बिलासपुर
(ख) तहसील-तखतपुर
(ग) नगर/ग्राम-काठाकोनी
(घ) लगभग क्षेत्रफल-0.249 हेक्टेयर

	खसरा नम्बर (1)	रकबा (हेक्टेयर में) (2)
	339/1 क	0.168
	407	0.065
	653	0.016
योग	3	0.249

(2) सार्वजनिक प्रयोजन जिसके लिए आवश्यकता है-अरपा भैंसाझार बैराज परियोजना के अन्तर्गत माईनर नहर निर्माण हेतु.

(3) भूमि का नक्शा (प्लान) का निरीक्षण अनुविभागीय अधिकारी (राजस्व), कोटा के कार्यालय में किया जा सकता है.

छत्तीसगढ़ के राज्यपाल के नाम से तथा आदेशानुसार,
पी. दयानंद, कलेक्टर एवं पदेन उप-सचिव.

विभाग प्रमुखों के आदेश

कार्यालय, प्रबंध संचालक, छ.ग. राज्य कृषि विपणन (मण्डी) बोर्ड
बीज भवन, जी.ई.रोड, तेलीबांधा, रायपुर

रायपुर, दिनांक 30 जून 2018

क्रमांक/बी-4/1/32(2)/भा.अधि./2018-19/2383.—कार्यालयीन आदेश क्रमांक/बी-8/32(2)/भा.अधि./2012-13/3345-3346 रायपुर, दिनांक 29-08-2012 द्वारा अनुविभागीय अधिकारी (रा.) जशपुर को, कृषि उपज मण्डी समिति जशपुर, जिला-जशपुर का भारसाधक अधिकारी नियुक्त किया गया था.

संयुक्त संचालक छ.ग. राज्य कृषि विपणन बोर्ड संभागीय कार्यालय अंबिकापुर संभाग के पत्र क्रमांक 232 दिनांक 20-06-2018 द्वारा श्री राजेन्द्र कुमार पैकरा, प्रभारी उप संचालक, कृषि को कृषि उपज मंडी समिति जशपुर जिला-जशपुर का भारसाधक अधिकारी नियुक्त करने का प्रस्ताव दिया गया है.

अतः छत्तीसगढ़ कृषि उपज मण्डी अधिनियम 1972 (क्रमांक 24 सन् 1973) की धारा 57 की उपधारा (1) के खण्ड (ख) में प्रदत्त शक्तियों का प्रयोग करते हुए, एतद्द्वारा, अनुविभागीय अधिकारी (रा.) जशपुर के स्थानांतरण हो जाने से उनके स्थान पर श्री राजेन्द्र कुमार पैकरा, प्रभारी उप संचालक, कृषि जशपुर को, उनके कार्यभार ग्रहण दिनांक से कृषि उपज मण्डी समिति जशपुर जिला-जशपुर का भारसाधक अधिकारी नियुक्त किया जाता है.

रायपुर, दिनांक 30 जून 2018

क्रमांक/बी-4/1/32(2)/भा.अधि./2018-19/2385.—कार्यालयीन आदेश क्रमांक/बी-8/32(2)/भा.अधि./2017-18/5972-5973 रायपुर, दिनांक 07-11-2017 द्वारा श्रीमती बी. एक्का, तहसीलदार, सक्ती को कृषि उपज मण्डी समिति सक्ती, जिला-जांजगीर-चांपा (छ.ग.) भारसाधक अधिकारी नियुक्त किया गया था.

संयुक्त संचालक छ.ग. राज्य कृषि विपणन बोर्ड, संभागीय कार्यालय, बिलासपुर के पत्र क्रमांक 578 दिनांक 15-06-2018 द्वारा श्री बसंत लाल पाण्डेय, अनुविभागीय अधिकारी, कृषि, सक्ती को कृषि उपज मंडी समिति सक्ती, जिला-जांजगीर-चांपा (छ.ग.) का भारसाधक अधिकारी नियुक्त करने का प्रस्ताव दिया गया है.

अतः छत्तीसगढ़ कृषि उपज मण्डी अधिनियम 1972 (क्रमांक 24 सन् 1973) की धारा 57 की उपधारा (1) के खण्ड (ख) में प्रदत्त शक्तियों का प्रयोग करते हुए, एतद्द्वारा श्रीमती बी. एक्का, तहसीलदार, सक्ती के स्थान पर श्री बसंत लाल पाण्डेय, अनुविभागीय अधिकारी, कृषि, सक्ती को, उनके कार्यभार ग्रहण दिनांक से कृषि उपज मण्डी समिति सक्ती, जिला-जांजगीर-चांपा (छ.ग.) का भारसाधक अधिकारी नियुक्त किया जाता है.

रायपुर, दिनांक 30 जून 2018

क्रमांक/बी-4/1/32(2)/भा.अधि./2018-19/2387.—कार्यालयीन आदेश क्रमांक/बी-8/32(2)/भा.अधि./2017-18/3696-97 रायपुर, दिनांक 16-08-2017 द्वारा श्री प्रवीण कुमार वर्मा, डिप्टी कलेक्टर, जिला धमतरी को कृषि उपज मण्डी समिति धमतरी, जिला-धमतरी (छ.ग.) भारसाधक अधिकारी नियुक्त किया गया था.

संयुक्त संचालक छ.ग. राज्य कृषि विपणन बोर्ड, संभागीय कार्यालय, रायपुर के पत्र क्रमांक 992 दिनांक 19-06-2018 द्वारा श्री आर. के. कश्यप, सहायक संचालक, कृषि, धमतरी को कृषि उपज मंडी समिति धमतरी, जिला-धमतरी (छ.ग.) का भारसाधक अधिकारी नियुक्त करने का प्रस्ताव दिया गया है.

अतः छत्तीसगढ़ कृषि उपज मण्डी अधिनियम 1972 (क्रमांक 24 सन् 1973) की धारा 57 की उपधारा (1) के खण्ड (ख) में प्रदत्त शक्तियों का प्रयोग करते हुए, एतद्द्वारा श्री प्रवीण कुमार वर्मा, डिप्टी कलेक्टर, जिला धमतरी के स्थान पर श्री आर. के. कश्यप, सहायक संचालक, कृषि, धमतरी को उनको कार्यभार ग्रहण दिनांक से कृषि उपज मण्डी समिति धमतरी, जिला-धमतरी (छ.ग.) का भारसाधक अधिकारी नियुक्त किया जाता है.

रायपुर, दिनांक 30 जून 2018

क्रमांक/बी-4/1/32(2)/भा.अधि./2018-19/2389.—कार्यालयीन आदेश क्रमांक/बी-8/32(2)/भा.अधि./2016-17/3746-3747 रायपुर, दिनांक 08-09-2016 द्वारा श्री जे. के. ध्रुव, अपर कलेक्टर राजनांदगांव को कृषि उपज मण्डी समिति राजनांदगांव जिला-राजनांदगांव भारसाधक अधिकारी नियुक्त किया गया था.

संयुक्त संचालक छ.ग. राज्य कृषि विपणन बोर्ड, संभागीय कार्यालय, रायपुर के पत्र क्रमांक 994 दिनांक 19-06-2018 द्वारा श्री ए. के. बंजारा, उप संचालक, कृषि, राजनांदगांव को कृषि उपज मंडी समिति राजनांदगांव, जिला-राजनांदगांव का भारसाधक अधिकारी नियुक्त करने का प्रस्ताव दिया गया है.

अतः छत्तीसगढ़ कृषि उपज मण्डी अधिनियम 1972 (क्रमांक 24 सन् 1973) की धारा 57 की उपधारा (1) के खण्ड (ख) में प्रदत्त शक्तियों का प्रयोग करते हुए, एतद्द्वारा श्री जे. के. ध्रुव, अपर कलेक्टर राजनांदगांव के स्थान पर श्री ए. के. बंजारा, उप संचालक, कृषि, राजनांदगांव को उनके कार्यभार ग्रहण दिनांक से कृषि उपज मण्डी समिति राजनांदगांव, जिला-राजनांदगांव का भारसाधक अधिकारी नियुक्त किया जाता है.

रायपुर, दिनांक 30 जून 2018

क्रमांक/बी-4/1/32(2)/भा.अधि./2018-19/2391.—कार्यालयीन आदेश क्रमांक/बी-8/32(2)/भा.अधि./2017-18/5718-5719 रायपुर, दिनांक 27-10-2017 द्वारा श्रीमती प्रेमलता चंदेल, डिप्टी कलेक्टर, अनुविभागीय अधिकारी (राजस्व) को कृषि उपज मण्डी समिति डोंगरगढ़, जिला-राजनांदगांव का भारसाधक अधिकारी नियुक्त किया गया था.

संयुक्त संचालक छ.ग. राज्य कृषि विपणन बोर्ड, संभागीय कार्यालय, रायपुर के पत्र क्रमांक 998 दिनांक 19-06-2018 द्वारा श्री बी. आर. बघेल, वरिष्ठ कृषि विस्तार, अधिकारी डोंगरगढ़ को कृषि उपज मंडी समिति डोंगरगढ़, जिला-राजनांदगांव का भारसाधक अधिकारी नियुक्त करने का प्रस्ताव दिया गया है.

अतः छत्तीसगढ़ कृषि उपज मण्डी अधिनियम 1972 (क्रमांक 24 सन् 1973) की धारा 57 की उपधारा (1) के खण्ड (ख) में प्रदत्त शक्तियों का प्रयोग करते हुए, एतद्द्वारा श्रीमती प्रेमलता चंदेल, डिप्टी कलेक्टर, अनुविभागीय अधिकारी (राजस्व) के स्थान पर श्री बी. आर. बघेल, वरिष्ठ कृषि विस्तार, अधिकारी डोंगरगढ़ को उनके कार्यभार ग्रहण दिनांक से कृषि उपज मण्डी समिति डोंगरगढ़, जिला-राजनांदगांव का भारसाधक अधिकारी नियुक्त किया जाता है.

अभिजीत सिंह,
प्रबंध संचालक.

कार्यालय मुख्य निर्वाचन पदाधिकारी, छत्तीसगढ़
शास्त्री चौक, पुराना मंत्रालय परिसर, रायपुर

रायपुर, दिनांक 23 जून 2017

फा.क्र-18/03/निर्वाचन याचिका/2017/618.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में भारत निर्वाचन आयोग द्वारा निर्वाचन अर्जी संख्या-04/2014 में दिए गए उच्च न्यायालय, छत्तीसगढ़, बिलासपुर के आदेश दिनांक 4 मई, 2016 को प्रकाशित करने वाली अधिसूचना को राज्य के शासकीय राजपत्र में सर्वसाधारण की जानकारी हेतु एतद् द्वारा प्रकाशित किया जाता है.

हस्ता./-

(डी. डी. सिंह)
मुख्य निर्वाचन पदाधिकारी.

भारत निर्वाचन आयोग
निर्वाचन सदन, अशोक रोड, नई दिल्ली-110001

नई दिल्ली, तारीख 14 जून, 2017—24 ज्येष्ठ, 1939 (शक)

सं. 82/छ.ग.-वि.स./(04/2014)/2017.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, निर्वाचन आयोग एतद्द्वारा निर्वाचन अर्जी सं. 04/2014 में दिये गये उच्च न्यायालय, छत्तीसगढ़, बिलासपुर के तारीख 4 मई, 2016 के आदेश को प्रकाशित करता है.

HIGH COURT OF CHHATTISGARH, BILASPUR

EP No. 4 of 2014

PETITIONER : 1. Mohammad Akbar S/o Mohammad Rashid agedAbout 57 Years R/o House No. 949, K.K. Road, Maudhapara, Raipur, P.S. Maudhapara, Head Post Office, Malviya Road, Raipur, Tah. & District, Raipur C.G.

VERSUS

RESPONDENTS : 1. Ashok Sahu S/o Purushottam Sahu Aged About 40 Years R/o Guru Govind Singh Marg, Kawardha, Post-Kawardha, Tah. Kawardha, Distt, Kbirdham C.G.

2. Kanhaiyalal Patel S/o Gintiram Patel Aged About 64 Years R/o Bajrangpara, Kohka Ward No. 8, Bhilai, Distt. Durg C.G.

3. Kartik Ram Marar S/o Ganga Ram Marar Aged About 50 Years R/o Bendarchi, Post-Kawardha, Tah. Bodla, Distt. Kabirdham C.G.

4. Krishna Kumar Dahire S/o Shiv Kumar Dahire Aged About 26 Years R/o Lokband, Post-Kargikhurd, P.S. & Tah. Kota, Distt. Bilaspur C.G.

5. Niranjan Khare S/o Alakh Ram Khare Aged About 38 Years R/o Civil Lines, Majgaon-3, Kawardha. Tah. Kawardha, Distt. Kbirdham C.G.

6. Malesh Kumar Markam S/o Sounu Markam Aged About 35 Years R/o Lalpur Khurd, Post- Bodla, Tah. Bodla, Distt. Kabirdham C.G.

7. Himanshu Thakur S/o Rudramani Singh Thakur Aged About 26 Years R/o Maruti Ward, Kabirpara, Kawardha, Post-Kawardha, Distt. Kabirdham C.G.

8. Anil Satnami S/o Bhondu Lal Kathle Aged About 28 Years R/o Jewadan Khurd, Post-Sonbarsa, Tah. Kawardha, Distt. Kabirdham C.G.

9. Jitendra Kumar Purainak S/o Arjun Purainak Aged About 31 Years R/o House No. 22, Shastri Marg, Ghothiya Road, Kawardha, Tah. Kawardha, Distt. Kabirdham C.G.

10. Mohit Sahu S/o Makhan Sahu Aged About 37 Years R/o Khairbana Kala, P.S. Kawardha, Tah. Bodla, Distt. Kabirdham C.G.

For the Petitoner	:	Mr. B.P. Sharma & M.L. Saket, Advs.
For Respondent No. 1	:	Mr. Ravish Agrawal, Sr. Advocate with Mr. B.P. Gupta & Mr. Anshuman Singh, R.S. Patel, Advocate.
For Respondent 5 & 7	:	Mr. Dinesh R.K. Tiwari, Advocate
For Respondent 6 & 8	:	Mr. Vaibhav A. Goverdhan, Adv.
For Respondentt No. 10	:	Mr. Amirto Das, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

C A V Order

04.05.2016

1. The challenge in this petition is to declare the election of respondent No. 1/the returned candidate as void and further declaration is prayed for that the petitioner be declared as duly elected candidate from No. 72 Kawardha Legislative Assembly. The petiton is under Section 123(6) of Representation of People Act. 1951 (hereinafter referred to as "the Act of 1951") on the ground that the returned candidate has incurred and authorized the expenditure in contravention of Section 77 of the Act, 1951.

2. Brief facts of the case are that the petitoner was the contesting candidate on behalf of Indian National Congress Party to the General Assembly Elections held in the year 2013 from Constituency No. 72 Kawardha, District Kabirdham, Respondent No. 1 was the candidate of Bhartiya Janta Party and was declared as returned candidate. Respondent No. 1 returned candidate secrued votes of 93645 and the petitioner secrued votes of 91087. The elections were held in two phases. First Phase of polling was held on 11.11.2013 for Rajnandgaon and Bastar districts and for the second Phase polling a notification was issued under the Election Rules on 25.10.2013 and the present election was held for Kawardha Legislative Assembly. District Kabirdham which was under second phase. As per the election programme, the following dates were fixed for conducting election.

(i)	Date of notification of election	25.10.2013
(ii)	Last Date of filing nomination	01.11.2013
(iii)	Date of scrutiny of nominations	02.11.2013
(iv)	Last date of withdrawal of nominations	04.11.2013
(v)	Date of Polling	19.11.2013
(vi)	Date of result declaration	08.12.2013

3. After the polling held, the results were declared on 08.12.2013 and Respondent No. 1 was declared as returned candidate. This fact is not in dispute that the election commission by its notification dated 23rd February 2011, fixed the outer limit of expenditure to be Rs. 16 lakhs for the State Assembly Election. Thereby the maximum expenses limit for the relevant Kawardha constituency was fixed at Rs. 16 lakhs.

4. Shri B.P. Sharma, learned counsel for the petitioner would submit that fixation of outer limit of expenditure was to provide candidates a 'level of playing field' to each candidate as against other and thereby the purpose was that platform should have been the same for each candidate who was contesting. He referred to section 123(6) of the Representation of People Act, 1951 and would submit that when the expenditure has been incurred over the prescribed limit or has been authorized to be made in contravention of Section 77 of the Act, then in such a case it would amount to corrupt practice. He further submits that respondent No. 1 has incurred expenses much over and above the prescribed/outer limit. He further referred to section 78 of the Act of 1951 and would submit that sub-section (1) of section 78 provides for 30 days for a candidate to file the account for the expenses incurred according to the prescribed limit which is defined u/s 2(g) of the Act of 1951. Referring to Rules 86, 90 & 90(b) of Conduct of Election Rules 1961. It is contended that respondent No. 1 has incurred expenditure much more than the limit prescribed and therefore there has been contravention of the limit of expenses as the same is above the prescribed limit. It is, therefore, submitted that it would contravene Section 77 of the Act 1951 and would fall wihtin the definition of Corrupt Practice.

5. Referring to deirection issued by the Election Commission, the counsel referred to the book captioned as "(निवार्चन व्यय-अनुवीक्षण पर अनुदेशों का संकलन जुलाई-2013)" by the Election Commossion of India. The counsel further referred to instruction 3.1.7 which relates to Media Pramanan and Anuvikshan Samiti i.e., Media Certification & Monitoring Committee (MCMC) and submitted that the Election Commission has given the direction about the nature of expenses and for preparation of video by the Election Commission and further referred to instruction 4.2 which lays down the role of Election Expenditure Observe. He further referred to instructions 4.2.10 about the DEMC (District Expenditure Monitoring Committee) and stated that as per the Annexure 74 the guidelines has been issued that in case certain expenses are not shown in day to day expenses and if the candidate is served with a notice by observer to explain the expenses and no reply thereof is filed whthin 48 hours by such Candidate then in such case the expenses as has been estimated and arrived at by the Expenditure Observer of Commission shall be added to the expenses of the candidate.

6. He further referred to instructions 4.4.1 of the Hand Book of the direction issued by and contended that accordingly the video surveillance team was constituted by the Election Commission so as to videograph the expenses related avents and submitted that videography was made and CDs were prepared and the expenditure observer shall take into expenses incurred on the basis of video evidence and record the same in the shadow register of expenses. He further submits that the CD which has been placed on record is admissible in this case irrespective of the provisions of Section 65-B of the Evidence Act and contended that the certified copy of the video having been given by the Election Commission to this petitioner, the same is admissible. He also referred to Annexure and stated that if the expenses are not shown within 30 days, it would be added to the expenditure of the candidate.

7. Counsel for the petitioner referred to the case law reported in **AIR 1996 SC 3081-Common Cause A Registered Society Vs. Union of India** and stated that the directions by the Election Commission are issued in view of the law laid down in the case which has empowered the Election Commission to issue the direction. It is contended that as such the directions which have been issued by the Election Commission has a statutory force. He further referred to instruction 5.5.1 of the instructions and stated that for public meetings and the railles permission has to be obtained from Commission and the expenditure are to be submitted in account including the expenses of the star campaigners. It is contended that all the expenses are to be accounted for i.e. expenditure for helicopter and sharing of stage. If any, by the star campaigner along-with other campaigners. He further stated that according to Instruction of 6.1 procedure has been prescribed to maintain account wherein it mandates that a seprate account has to be opened in the name of candidate and all the expenses are to be made from such account and expenses are also to be maintained in the daily register and the entries in register and expenses could not have been amended without the concurrence of District Expenditure Monitoring Committee.

8. The petitioner further referred to Section 93 of the Act, 1951 and would submit that as per the provisions of CPC under Order 13 Rule 4, once the document has been exhibited it would be admissible and in the instant case, the only mode of proof has been objected. It is contended that the documents itself by the provisions of the Evidence Act would be admissible as Section 3 of Indian Evidence Act defines the document, which includes the electronic record. The counsel referred to Sections 63 & 65-B of the Evidence Act 1872 and

submits that in this petition CDs having been certified, they would be a document and they would come within the ambit of public document and the certified copy of public documents would be admissible in view of section 76 of the Evidence Act.

9. It is further submitted that the provisions of Section 65-B of the Evidence Act would not be applicable in this case as the CDs which are exhibited are not prepared by use of computer. Therefore, the CDs would be the documents and being public document and certified copies are admissible in view of the law laid down in **Jaswant Sing Vs. Gurudeo Singh & others AIR SCW 2011 page 6567 and Shamsher Singh Verma v. Stae of Haryana 2015 AIR SCW 6434.**

10. Counsel for the petitioner would further submit that Ex. D-3 is proved by the respondent which proves the case that the expenditure has been incurred over and above the prescribed limit. While going through the document Ex. D-3, it is stated that this account has been submitted by the returned candidate wherein at column No. 2 the respondent has shown the expenditure of Rs. 8,52,854/- and further at Para 10(ka), it is stated that the amount of Rs. 11,72,702/- was admitted by the respondent and further stated that in Column (Kha), the observer has at one point has written rupees, but then the respondent has shown much more expenditure, therefore, it would amount to admission as the expenditure, disclosed by the respondent himself cannot be ignored, Therefore, the expenditure which was shown by the respondent bas to be accepted as a whole and after making addition, the amount exceeds Rs. 16 lakhs i.e., Rs. 11,72,702/- plus Rs. 4,31,922) which comes to Rs. 16,04,624/-.

11. It is further contended by the petitioner that the petitioner has obtained certified copy of photocopy of Register of Account Book vide application for certified copy which was numbered as 1954/2013 and in such copy an amount was shown of Rs. 14,01,802/- and the document initially which was filed with the written statement shown different amounts. Therefore, when the certified copy of the register was obtained by the petitioner, initially in the year 2013, certain entries wrere not there and there has been a manipulation in the register as by that time according to document Ex. P-59, no meeting was held uptill 28.05.2014. He further referred to Ex. P-69 and stated that the star campaigner campaigned in the election and election expeness of star compaligner Narendra Modi was shared by the applicants and another candidate neamely Motillal Chandravanshi of Pandarniya. It is submitted that Motilal Chandrawanshi has shown an expenditure of Rs. 2,97,250/- and therefore by making addition of the amount of Rs. 2,97,250/- would fall to the share of respondent the expenses would further go upto 19,01,874/-.

12. it is contended that respondent returned candidate has shown expenses of flag Rs. 4,91,400/- which has been borne by the party as per Ex. P-38 and Serial number of the same is same that of voucher, However, Rs, 4,91,400/- has not been shown by the Bjp as party expenses. As per Ex. P-67 wherein the party expenses for flag is shown only to Rs. 45,144/- therefore, it is stated that this amount is also required to be added as expenditure which was borne by the returned candidate.

13. It is further stated that as per the document Ex. P-6 the party expenditure shown by the returned cadndiate is Rs. 1,22,313/- and not Rs. 4,91,400/- and as such the said amount of Rs. 4,91,400/- is required to be added in the expenditure it is furhter submitted that the rate of flag has been proved by Ex P-70 and reading the documents altogether shows that actually the entire expenses were borne by the returned candidate Mr. Ashok Sahu.

14. Referring to another expenditure of Rs. 54,000/- as per Ex.P-37 it is stated that the Expenditure Observation Team presumed the expenditure of Rs. 54,000/- but in the shadow register, voucher 37, It was shown to be blank. Therefore, it is contended that Rs. 54,000/- is also to be added. Referring to admissibility of document it is stated that the documents were filed with the permission of the Court as per Order 7 Rule 14(3) and the documents having been filed, they were observed to be admitted subject to pleadings if made. He referred to the order dated 17.04.2015 and would submite that the Court itself has found that the pleading has already been made in respert of documents, Therefore, that issue of pleading could not have been gone into. He relied on decision of the Supreme Court in *Kapil Kumar Sharma Vs. Lalit Kumar Sharma and another-(2013) 14 SCC 612* and submittted that the documents so placed would be admissible in evidence.

15. Further referring to statements of petitioner itself he submittted that the Kawardha election undoubtedly took place in the 2nd phase and the notification was made on 25.10.2013, it is stated that as per the Statement of Naresh Gupta (D. W. 2), the list of star compaigner was deposited by the party on 01.11.2013 but it was not deposited as per the repost of Election Commission vide Ex. P-50. It is further contended that Ex.D-9 was only given to Election Commission on 31.10.2013 at about 7.30 but it was not supplied to Chief Electoral

Officer. Therefore, from 25.10.2013 within 7 days, the list of star campaigners was not submitted by respondent No. 1.

16. It is further contendent by referring to Ex. P-33, 34 40, 46, 47 that different expenditure has to be added to the account of returned cadndiate. It was further stated by referreing to Exhibits P-13, P-14, P-20, P-48, P-49, P-53 & P-67 that the expenditure incurred including the expenditure of Helicopter of Rs. 17,50,000/- as per Ex. P-53 exceeded the prescribed limit. It is contended that therefore the expenditure was incurred beyond the prescribed limit.

17. Advancing the submission on issue No. 3 wherein the petitioner has claimed to be declared as retrurned candidate the counsel would submit that incurring the expenditure over and above the prescribed limit would amount ot purchasing the voters and the presumption has to be drawn that the petitioner was not allowed to a 'Level Playing Field' with respondent No.1. Consequently the petitoner would be entitled to be delcared as returned candidate as per Section 98(c) of the Act of 1951 as the harmonious construction is to be made in accordance with section 123 of the Act. He further submits that reading of Annexure P-4 shows the number of voted secured by the respective candidates. One of the columns of the said documents shows that the voters have neihter Voted for the petitioner nor have voted for the respondent which is shown as NOTA i.e, None of the above it is further submitted that the legitimate canvssing means the expenses within the permissible limits and the same having not been made by the returned candidate it would amount to corrupt practice within the meaning of section 77 of the Act 1951. It is submitted that since Ashok Sahu has made the default of over expenditure therefore by re-election the public exchequer cannot be placed under pressure and therefore like that at Cricket matches "Duckworth Lewis formula" requires to be adopted by retably distributing the NOTA votes and petitioner should be declared as returned candidate by declaring the election of returned candidate to be void.

18. Per contra, learned Senior Counsel Shri Ravish Agrawal, assisted by Mr. B.P. Gupta, Mr. R. S. Patel Mr. Anshuman Singh & Mr. Vaibhav Govardhan, Advocates opened the arguments by referring to section 100 (1)(b) of and 1 (d)(iv) of the Act of 1951. It is submitted that in order to challenge the election u/s 123(c) of the Act 1951 the petitioner is required to plead and prove that the result of election so far as it relates to a returned candidate has been materially affected, Elaborating scope of Section 77 read with section 123(6) of the Act, 1951 learned counsel would submit that the scope of Section 77 are two fold and stated that failure to maintain account as per sub-sections (1) & (2) of Section 77 do not take within its fold the corrupt practice if the accounts are not maintained. Therefore, the corrupt practice can only be under sub-section (3) of Section 77. Referring to law laid down in (1999) 1 SCC 666 L.R. *Shiveramagowda & others Vs. T. N. Chandrashekhr (deed) by L.Rs. & ohters,* it was contended that the pleading with respect to fact that fact that "result of election has materially affected" has to be made.

19. Now further referring to a case law reported in *(1995) 5 SCC 347-Gajanan Krishnaji Bapat & another vs. Dattaji Raghobaji Meghe and others,* it is submitted that the allegation of coruupt practice must be pleaded alongwith source of information, date and place and the returned candidate cannot be taken by surprise during trial and evidence. Further relying on a case law reported in *(1999) 9 SCC 386-Jeet Mohinder Singh Vs. Harminder Singh Sassi* he submits that the allegations relating to commission of corrupt practice should be sufficiently clear and precise along-with source of information and furhter stated that mere non-disclosure of expenses would not amount to corrupt practice. It is furhter stated that all the facts which are essential to prove the corrupt Practice with Complete cause of faction must be pleaded and failure to plead even a single material fact would amount to non-disclosure. Further placing reliance in *(2010) 1 SCC 466-Kattinokkula Murall Krishna Vs. Veeramalla Koteshwara Rao and (2000) 8 SCC 191-Ravinder Singh Vs. Janmeja Singh* it is contended that the standard of proof is entirely different and would submit that if the evidence is led, but no categorical pleadings are made then in such case, the evidence cannot be looked into.

20. It is submitted by counsel for respondent No. 1 that the entire averments in this petition have been made on the basis of CD. It is contended that the CDs being not accompanied by certificate u/s 65-B of the Evidence Act, the same would be inadmissible. Therefore the source of information on the basis of CD as has been pleaded cannot be looked into. It is further submited that the petitoner has contended that the knowledge of various programmes was passed on from CD and the photographs were also taken from the CD and since the CD is inadmissible in evidence therefore, the entire case would fall. Referring to document Ex.D-3 and the account, learned counsel for respondent No. 1 submits that the petitioner has wrognly projected the documents that the respondent has admitted certain expenses, therefore it should be included in the expenditure account. Counsel went through various entries and would submit that the expenses like banners and

hoardings has been made at one time and once the expenses of banners and hoardings are prepared, it cannot be reckoned for the day one and for continuous period and referring to the account, counsel further submits that the expenses has been shown in the account which was accepted by the expenditure observer. It is submitted that the expenditure observer having found entires correct accepted the account so on the sole submission of the petitoner that the expenses having not been correctly added which have been shown by the respondent and the expenditure observer is without any support. It is further stated that the petitioner has evolved a new idea to get himself elected and after losing such idea, the prayer for cancellation of election of respondent returned candidate and to declare him as elected member will defeat the entire democratic system and the idea projected on presumption cannot be acted upon.

21. This Court on the basis of pleadings of the parties on 17.04.2015 has framed the following issues for consideration.

S.No.	Issues	Findings
(i)	Whether the returned candidate has incurred unauthorized expenditure in contravention of Section 77 of the Representation of people Act. 1951 and exceeded the expenditure over and above Rs. 16.00 lacs, which was published in the Gazette of India on 23.02.2011, therefore, the election is void ?	The petitioner has falled to prove
(ii)	Whether in absence of proper pleading regarding source of information of corrupt practice as per Sec. 83(1)(b) of the Representation of People Act, 1951, the petition is liable to be dismissed ?	Material particulars of pleadings as against evidence led on the head of expenses are completely absent.
(iii)	Whether the petitoner is entitled to second relief for furher declaration to be a returned candidate or such relief is not available in absence of proper and essential pleadings to this effect ?	Petitioner is not entitled to be declared as returned candidate.
(iv)	Any other relief which the Court deems fit.	Not entitled to any relilef.

22. The petitioner himself has examined as P.W. 1 and P. Dayanand was examined as P.W.2 U.S. Agrawal was examined as P.W. 3. Amit Kumar Awasthi was examined as P.W. 4. Ramesh Patel was examined as P.W.5 D.D. Singh was examined as P.W. 6 and Ashok Agrawal was examined as P.W. 7 whereas on behalf of respondent No. 1 Ashok Sahu, the returned candidate, himself examined as D.W. 1 Naresh Chander Gupta was examined as D.W. 2 and S.K. Singh was examined as D.W. 3.

23. Evaluating the pleadings, documents and the evidence go to show that the challenge in this election petition is predominantly on the ground that the returned candidate has incurred expenditure beyond the maximum prescribed limit thereby was involved in the corrupt practice. Reading of the R.P. Act, 1951 with reference to corrupt practice, section 123(6) speaks of incurring of authorizing of expenditure in contravention of section 77. Section 123(6) is reproduced hereinbelow:

Sec.123 of the R.P. Act of 1951

123 Corrupt practices.—the following shell be deemed to be corrupt practices for the purposes of this Act:

(1) xxx
(2) xxx
(3) xxx
(4) xxx
(5) xxx
(6) The incurring or authorizing of expenditure in contravention of section 77.

24. Since this section makes a reference to section 77 of the Act of 1951, necessarily section 123(6) has to be read along with section 77 which reads as under;

Sec. 77 of the R.P. Act 1951

"77. Account of election expenses and maximum thereof,—

(1) Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorized by him or by his election agent between the date of on which he has been nominated and the date of declaration of the result thereof, both dates inclusive.

Explaination 1,—For removal of doubts, it is hereby declared that—

(a) The expenditure incurred by leaders of a political party on account of travel by air or by any other means of transport for propagating programme of the political party shall not be deemed to be the expenditure in connection with the election incurred or authorized by a candidate of that political party or his election agent for the purposes of this sub-section;

(b) Any expenditure incurred in respect of any arrangements made, facilitites provied or any other act or thing done by any person in the service of the Government and belonging to any of the classes mentioned in clause (7) of Section 123 in the discharge or purported discharge of his official duty as mentioned in the proviso to that clause shall not be deemed to be expenditure in connection with the election incurred or authorized by a candidate or by his election agent for the purposes of this sub-section.

Explaination 2.—for the purpose of clause (a) of *Explanation 1*, the expression "leaders of a political party", in respect of any election means,—

(i) Where such political party is a recognized political party, such persons not exceeding forty in number, and

(ii) Where such political party is other than a recognized political party, such persons not xceeding twenty in number,

Whose names have been communicated to the Election Commissiion and the Chief Electoral Officers of the States by the political party to be leaders for the purposes of such election, within a period of seven days from the date of the notification for such election published in the Gazette of India or Official Gazette of the State, as the case may be, under this Act;

Provided that a political party may, in the case where any of the persons referred to in clause (i) or, as the case may be, in clause (ii) dies or ceases to be a member of such political party, by furhter communication to the Election Commission and the Chief Electoral Officers of the States, substitute new name, during the period ending immediately before forty-eight hours ending with the hour fixed for the conclusion of the last poll for such election, for the name of such person died or ceased to be a member, for the purposes of designating the new leader in his place.

(2) The account shall contain such particulars, as may be prescribed.

(3) The total of the said expenditure shall not exceed such amount as may be prescribed".

25. Section 100 (1)(b) lays down that the commission of corrupt practice as a ground for delcaring the election void. In this context. Section 100 (1)(b) (d) is relevent here and quoted below.

Section 100 of the R.P. Act of 1951

100. Grounds for declaring election to be vold.—

(1) Subject to the provisions of such sub-section (2) if the High Court is of the opinion—

(a) xxx xxx xxx

(b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or

(c) xxx xxx xxx

(d) that the reuslt or the election, in so far as it concerns a returned candidate, has been materially affected—

(i) xxx xxx

(ii) by any corrupt practice committed in the interests of the returned candidate by an agent other then his election agent or;

(iii) xxx xxx

(iv) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act.

The High Court shall declare the election of the returned candidate to be void".

26. Reading of the aforesaid provisions would indicate that section 77(1) of the Act 1951 makes it mandatory for every candidate at an election to the State Legislative Assembly or the House of People to keep a separete and correct account of all expenditure incurred or authorized by him or by his election agent, between the date on which he was nominated and the date of declaration of result of election both dates inclusive. The total of the said expenditure shallnot exceed such amount as may be prescribed u/s 77(3), u/s 77(2), the account shall contain such particulars as may be prescribed. Rule 90 of the Conduct of Election Rules 1961 prescribes the limit of election expenditure for parliamentary and assembly constituencies in each of the States and union territories. The particulars which have to be shown in the account are prescribed in Rule 86 of those Rules, failure to maintain the account is an electoral offence u/s 177-I of the IPC. Reading of entire provisions of section 77 would lead to show that all expenditure incurred or authorised by the political parties friends and supporters of a candidate in connection with his election is to be considered as part of candidates expenditure except the expenditure on travelling of leaders of his political party. By the amendment Act 2003 the earlier explanations 1 & 3 to section 77 (1) of 1951 of the Act have been substituted by new explanations 1 & 2. Therefore, the analysis of section would demonstrate that if any political party or the candidate wishes to avail it of the expmption provided by the provisions u/s 77(1), the intimation of names of the leaders of political party should be communicated to the Chief Electoral Officer within a period of 7 days prescribed in the Act and failure may result in denial of benefit.

27. Further coming back to the point of pleading, reading of Section 83 would show that where an election petition alleges commission of corrupt practice by a candidate, the pleading must cantain (a) direct and detailed nature of corrupt practice as defined in 1951 Act (b) the details of every important particular giving the time, place, names of persons, use of words and expressions, etc. it must also clearly appear from the alligations that the corrupt Practice was indulged with either express or implied consent of the candidate or his election agent.

28. In the present case, the corrupt practice has been stated about the expenditure over and above prescribed limit. Since the entire allegation is on over expenditure made by respondent returned candidate, therefore it would be necessary to evaluate the mandatory requirements of material facts and material particulars wherther have been pleaded. The learned counsel for the petitoner with respect to the material facts and pleadings had referred to Order dated 30th July 2014 passed by this court and has stated that the Court in such order has found that all the material facts and particulars have been pleaded with respect to corrupt practice to go in for trial. Perusal of record would show that the said order was passed while adjudicating an application under Order 7 Rule 11 of CPC. At that time neither written statements were filed nor the avidence was adducted. Thereafter, lot of change has taken effect as the denial by way of written statement has come on

record. The petitioner has elaborately come out with material particulars of expenses in his evidence. Therefore, it would be necessary to consider and examine whether such material facts and material particulars head-wise minutely have been pleaded or not ?. It being an election petition, the material particulars of expenses incurred is the requirement of law. The survey of evidence of material particulars with respect to expenses would show that the statement over the expenses has been stretched upon with different particular expenses minutely. But when the pleadings are seen as against the evidence adduced, such materials particulars appears to be absent. The court cannot ignore the nature of petition which is only based on over-expenditure incurred. Therefore, it was bouden duty of the petitioner ot elaborate each and every expenses particularly by way of pleading so that the returned candidate could meet out the same in reply. Elaborating head or expenses minutely by the petitioner falls short of the pleading. The function of the complete particulars is to present as full picture of the cause of action. The same may be overlapping but when it comes to evaluate on the head of expenses, then certianly each and every expenses should have been pleaded.

29. Perusal of issues No. 1 & 2 would indicate that both the issues are interlinked with respect to pleading and evidence. Therefore, both the issues i.e. No. 1 & 2 are considered simultaneously.

30. Now reverting to the pleading of the petitioner, primarily much pleading has been made that the information gathered about the higher expenditure is based on video recording made at the time of election which is placed as CD i.e., Compact Disk. The petitioner has contended at Para 10(a)(b)(e)(f) & (g) of the petition that the source of information is gathered from CDs. The petitioner has marked the compact disks (CD) as Exhibits P-9, P-11, P-15, P-18, P-60, P-61, P-62, P-63, P-64, P-65 & P-66. The said marking has been made subject to objection raised about the admissibility of such CD in evidence. Since the source of information abount expenses is pleaded to be bassed on the CDs, it would be necessary to examine the law as to whether the said CDs though marked as exhibits are admissible in evidence or not ?

31. The Evidence Act has been amended by the I.T. Act to introduce the admissibility of the electronic records, The concept of electronic evidence has been incorporated to provide the Court with a frame work to incorporate and introduce these new innovations in scientific technology. Under Section 3 of the Evidence Act, the definition of term “evidence” has been amended to mean and include;

“(a) all statements which the court permits or requires to be made before it by a witness; in relation to matters of fact under inquiry, such statement are called oral evidence;

(b) all documents includeing electronic records produced for the inspection of the court; such documents are called documentary evidence.” in accordance with the amended definition of ‘evidence’ documentary evidence has been amended to include electronic records. The term ‘electronic evi-dence’ has been given the same meaning as assigned in the IT Act, which means ‘date, record or date generated, image or sound stored, received or sent in an electronic form or micro file or computer generated micro fiche.’

32. According to the new provisions introduced into the Evidence Act, Section 65-A provides that the contents of an electronic record may be proved in accordance with the provisions of S.65-B of the Evidence Act, which provides that notwithstanding anything contained in the Evidence Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer (computer output) shall be deemed to be a documnet, provided the conditions specified in S.65-B(2) are satisfied in relation to the information and computer in question. Such a document is admissible in any proceedings, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

33. Before a computer output is admissible in evidence, the following conditions must be fulfilled, as set out in Section 65-B (2);

“(a) the computer output containing the information was produced by the computer during the period over which the computer was used regularly to store or process information for the purpose of any activities regularly carried on over that period by the person having lawful control over the use of the computer.

(b) during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer in the ordinary course of the said activities;

(c) through the material part of the said period the computer was oprating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its contents; and

(d) the information contained in the electronic record reproduced or is derived from such information fed into the Computer in the ordinary course of the said activities".

34. The laws on section 65-B of the Evidence Act came up for interpretation before Their Lordships in case of ***(2014) 10 SCC 473-Anvar P.V. Vs. P.K. Basheer*** wherein Hon'ble the Supreme court held thus in paragraphs 14, 15 & 16.

"14. Any documentary evidence by way of an electronic record under the Evidence Act. in view of Section 59 and 65-A can be proved only in accordance with the procedure prescribed under Section 65-B. Section 65-B deal. with the admissibility of the electronic record. The purpose of these provisions is to sanctify secondary eviden in electronic form, generated by a computer. It may be noted that the section starts with a non-obstante clause. Thus, notwithstanding anything contained in the Evidence Act, any information contained in an electronic record which is printed on a paper, stored, recoreded or copied in optical or magnetic media produced by a computer shall be deemed to be a document only if the conditions mentioned under sub-section (2) are satisfied, without further proof or production of the original. The very admissibility of such a documents i.e. electronic record which is called as computer output, depends on the satisfaction of the four conditions under Section 65-B (2) of the Evidence Act.

(i) The electronic record containing the information should have been produced by the computer during the period over which the same was regularly used to store or process information for the purpose of any activity regularly carried on over that period by the person having lawful control over the use of that computer;

(ii) The information of the kind contained in electronic record or of the kind from which the information is derived was regularly fed into the computer in the ordinary course of the said activity;

(iii) During the material part of the said period, the computer was operating properly and that even if it was not operating properly for some time, the break or breaks had not aiffected either the record or the accuracy of its contents; and

(iv) the information contained in the record should be a reproduction or derivation from the in-

formation fed into the computer in the ordinary course of the said activity.

15. Under section 65-B(4) of the Evidence Act, if it is desired to give a statement in any proceedings pertaining to an electronic record, it is permissible provided the following conditions are satisfied;

(a) There must be certificate which identifies the electronic record containing the statement;

(b) The certificate must describe the manner in which the electronic record was produced;

(c) The certificate must furnish the particulars of the device involved in the production of that record;

(d) The certificate must deal with the applicable conditions mentioned under Section 65-B(2) of the Evidence Act; and

(e) The certificate must be signed by a person occupying a responsible official position in relation to the operation of the relevent device."

16. It is further clarified that the person need only to state in the certificate that the same is to the best of his knowledge and belief. Most importantly, such a certificate must accompany the electronic record like computer printout, compact disc (CD), video compact disc (VCD), pen drive, etc, printing to which a statement is sought to be given in avidence in evidence when the same is produced in evidence. All these safegurads are taken to ensure the source and authenticity, which

are the two hallmarks pertaining to electronic record sought to be used as evidence. Electronic records being more susceptible to tamprring, alteration. transposition, excision, etc., whthout such safeguards, the whole trial based on proof of electronic records can lead to travesty of justice."

35. Furhter it was held in the said case (Anwar PV. v. P.K. Basheer (Supra) that the Evidecne Act does not contemplate or permit the proof of an electronic record by oral evidence if the requirement u/s 65-B of the Evidence Act are not complied with. It has been further held that the proof of electronic record is a special provision introduced by I.T. Act amending various provisions under the Eviedence Act. The very caption of Section 65-A of the Evidence Act, read with Sections 59 & 65-B sufficient to hold that the special provisions on evidence relating to electronic record shall be governed by the procedure prescribed under Section 65-B of the Evidence Act, It is held that it is a complete code in itself and being a special law, the general law under Sections 63 & 65 has to yield.

36. Similar view has been adopted in an unreported decision rendered in case of ***Kamal Patel Vs. Ram Kishore in Election Petition No. 24/2014*** decided by the M.P. High Court following the case of Anwar P.V (Supra). Furhter similar view has again relterated by the M.P. High Court in Election Petition No. 34/2014 (unreported)-Abhay Singh Vs. Rakesh Singh. Therefore, if the aforesaid interpretation is applied to the present case, it would lead to indicate that even the CD kept with the Election Commission would not be covered as primary evidence and primary evidence can only be referred to the orginal recording in a magnetic form, if any, or memory card stored by the Election Commission. The argument advanced by the petitioner that in preparation of CD. as no computer was used, as such, Section 65-B of the Evidence Act would not be applicable is completely unfounded and without any logical back-ground.

37. Further reading of the petition would indicate that with respect to source of information of corrupt practice pleaded at Para 10(a)(b)(e)(f) & (g) of the petition such information is said to have been derived after watching the CD. In support of the contention of para 10(b), the petitioner had deposed that the expenses have been alleged about the public meeting of Su. Shri Uma Bharti at para 73 of the statement of the petitioner, It is stated that he has made such pleading on the basis of CD. However, it has been stated that the CD has been obtained from the observer and he had received the same from him. Therefore, certain contradictions appear to have been existing as at one para, the petitioner has stated that he has obtained the CD from Election Officer and again it is stated that it was obtained from expenditure observer of election commission. Further in cross examination, it is stated that the petitioner had obtained the CD on 07-05-2014, importantly, the date of filling of the election petition is 20-01-2014. So the CDs which were filed alongwith the election petition on 20-01-2014. and are marked as Ex. P-9, P-11, P-15 & P-18 though have been stated to be obtained on 07-05-2014 but how it was filed on 20-01-2014 along-with the eletcion petition, the fact and evidence are completely contradictory to each other. The necessary inforece can be made that the said CD may not be available. So serious contradiction about the existence of CD itself appears.

38. Now referring to the statements of P.W. 2 the District Election Officer and P.W. 3 the incharge of Video Recording Team, it goes to show that P.W. 2 the District Election Officer in examination-in-Chief when confronted with the CDS i.e. Ex. P.9, P-15, 18 and Ex. P-60 to P-66 he stated that he cannot affirm the fact whether the same CDs were given by the office or not which were shown to him. In examination-in-Chief a question was asked that whether he has bought all the CDs relating to speech of Shri Narendra Modi, Su.-Shri Uma Bharti, nomination railly, rally of Raman Singh Road Show; whether he has brought it all the CDs with it, in reply to it, he stated that be cannot confirm the fact whether the CDs which are placed on record are one and the same or not. He furhter clarified the fact that the CDs which were placed before the Court cannot be said to be the same CDs i.e. of the election. Similarly, the in-Charge of the video recording team i.e. P.W.3 U.S. Agrawal in examination-in-chief has stated that the CDs which were issued were with date, time, in respect of the programs for which it was made. It is also stated that it was written on the CD and when confronted stated that the he cannot say that the same CDs are filed along-with the petition. Admittedly, these CDs do not contain the certificate as required u/s 65-B of the Evidence Act.

39. So on the aforesaid analogy of case law and the statement of witnesses who had issued the said CD it goes to show that the very existence of such CDs which are placed on record and exhibited has come under the clouds. Admittedly, the CDs do not contain the certificate as required u/s 65-B(4). Therefore, the evidence relating to electronic record as observed hereinbefore being a special provision, the general law on secondary evidence u/s 63 read with section 65 of the Evidence Act shall yield to the same.

40. So with reference to the interpretation of provisions of Indian Evidence Act in the context of Electronic Evidence with reference to the present case, the original recording of the videos wherein all the rallies, road show etc., were recorded primarily would only be the evidence and in any case, the secondary evidence of such contents are required to be proved as per modes provided under the statute. The necessary certificate as required u/s 65-B is mandatory to make the CDs as admissible. As a result, the CDs which are placed and exhibited in the case cannot be admitted in evidence as they fall short of requirement u/s 65-B of the Indian Evidence Act. 1872. So the entire case of source of information of corrupt practice relating to over expenditure on the basis of CDs is inadmissible in evidence and the same cannot be acted upon at the instance of the petitioner.

41, Now while examining the pleading along-with evidence, the law and principles which occupy the field would be necessary to point out in a case law reported in ***(1999) 1 SCC 666 - L.R. Shivarama Gowda vs. T.M. Chandrashekhar (para 10).*** Their Lordships of the Supreme court have laid down the law that in order to declare an election to be void under section 100(1)(d)(iv), it is absolutely necessary for the election petitioner to plead that the result of the election so far as it relates to returned candidate has been materially affected by the alleged non-compilance with the provisions of the Act or of the rules. Now reverting to para 5 of the election petition, it would go to show that the specific pleading is absent about the fact that the election result has been materially affected for non-compliance of any rules or the provision. In the case in hand since the court is examining the allegation of election petition as against the will of the people, therefore, the necessary pleading to this effect has to be there in the election petition to hold that there is a violation of specific rules or direction issued by the Election Commission coupled with the fact that the result of the election of the returned candidate has been materially affected by the alleged non-compliance.

42. furhter at Para 18 of case (supra), the Supereme Court while analyzing application of section 77 further held that incurring or authorizing of expenditure in contravention of section 77 of the act is a corrupt practice and section 77 provides that every candidate at an election shall keep a separate and correct account of all expenditure in connection with the elction incurred or authorized by him or by his election agent and that the accounts shall contain such particulars as may be prescribed. Rule 86, of the Conduct of Election Rules, 1961 sets out the particulars to be contained in the account of election expenses. It has been furhter held that subsections (1) & (2) of section 77 deal only with the maintenance of account. Subsction (3) of section 77 provides that the total of the election expenses referred to in subsection (1) shall not exceed such amount as may be prescribed. Rule 90 of the Conduct of Election Rules.

43. It is not in dispute that the maximum limit for Chhattisgarh Assembly Constituency was of Rs. 16 lakhs. While referring to statute, it states that in order to declare an election to be void, the grounds are enumerated in section 100 of the Act. Sub-section (1)(b) of section 100 relates to any corrupt practice committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent. In order to bring a matter within the scope of sub-section (1)(b), the corrupt practice has to be one defined in section 123. What is referred to in sub-section (6) of section 123 as corrupt practice is only the incurring or authorizing of expenditure in contravention of section 77. Sub-section (6) of section 123 does not take into its fold, the failure to maintain true and correct accounts. The language of sub-section (6) is so clear that the corrupt practice defined therein can relate only to sub-section (3) of secting 77 i.e. the incurring or authorizing of expenditure in excess of the amount prescribed. Therefore, it cannot by only stretch of imagination be said that non-compliance with sections 77(1) and (2) would also fall within the scope of section 123(6). Consquently it cannot fall under section 100(1)(b). Therefore the necessary inference would be drawn that in absence of the pleading that the election result has been materially affected by the alleged non-compliance with the provisions or of the Rules falling back to section 77(1) and (2) of the Act of 1951, the corrupt practice cannot be branded unless it is found that the returned candidate has exceeded the maximum expenditure of Rs. 16 lakhs according to Rule 90 of the Conduct Rules of 1961 i.e., expenditure made over and above the specified limit of Rs. 16 lakhs.

44. Now if we refer to case law reported in **(1995) 5 SCC 347-Gajanan Krishnaji Bapat vs. Dattaji Raghobaji Meghe.** Their Lordships of the Supreme Court held that "in order to unseat a returned candidate, the corrupt practice must be specifically allegaed and strictly proved to have been committed by the returned candidate himself or by his election agent or by any other person with the consent of the returned candidate or by his election agent, Suspicion, however strong, cannot take the place of proof, whether the allegations are sought to be established by direct evidence or by circumstantial evidence. Since pleadings paly an important role in an election petition, the legislature has provided that the allegations of corrupt practice must be properly alleged and both the material facts and particulars provided in the petition itself so as to disclose a complete cause of action."

45. A petition levelling a charge of corrupt practice is required, by law, to be supported by an affidavit and the election petitioner is also obliged to disclose his source of information in respect of the commission of the corrupt practice. Under section 123(6) of the Act, 1951 the incurring or authorizing of expenditure in contravention of section 77 of the Act amounts to commission of a corrupt practice. However every contravention of section 77 of the Act does not fall within the mischief of section 123(6) of the Act, In Gajanan Krishnaji Bapat (supra), the Supreme Court while referring to the decision rendered in case of ***Magraj Patodia vs. R. K Birla AIR 1971 SC1295*** has reiterated that to prove the corrupt practice of incurring or authorizing expenditure beyond the prescribed limit, it is not sufficient for the petitioner to merely prove that the expenditure beyound the prescribed limit had been incurred in connection with the election of returned candidate, but he must go further and prove that the excess expenditure, was authorized of incurred with the consent of the returned candidate of his election agent. The entire reading or petition shows that the pleading to this effect that over expenditure was with consent of the returned candidate is absent.

46. Further in case of ***Indira Gandhi vs. Raj Narain reported in 1975 supplementary SCC 1***, the Supreme Court further affirmed the view while taking the note of the amendment Act 58 of 1974 and opined that voluntary expenditure incurred by friends, relations or sympathizers of the candidate or the candidate's political party are not required to be included in the candidate's return of expenses, unless the expenses were incurred in the circumstances from which it could be positively inferred that the successful candidate had undertaken that he would reimburse the party or the person who incurred the expenses. it is not enough to prove that some advantage accrued to the returned candidate or even that the expenditure was incurred for the benefit of the returned candidate or that it was within the knowledge of the returned candidate and he did not prevent it, to clothe the returned candidate with the liabllity of committing the alleged corrupt practice. The pleading to this effect that the returned-candidate had undertaken that he would reimburse the party or person the expenditure is absent.

47. The Supereme Court in case to ***Jeet Mohinder Singh vs. Harminder Singh Jassi (1999) 9 SCC 386*** in para 40 held that "the success of a candidate who has won at an election should not be lightly interfered with. Any petition seeking such interference must strickly conform to the requirements of the law. The court further held that setting aside of an election involves serious consequences not only for the returned candidate and the constituency, but also for the public at large inasmuch as relection involves an enormous load on the public funds and administration.

48. It has been furhter held in *Jeet Mohinder Singh (supra),* that the charge of corrupt practice is quasi criminal in character. If substantiated it leads not only to the setting aside of the election of the successful candidat, but also of his being disqualified to contest an election for a certain period. It may entall extinction of a person's public life and political career. It is furhter hald that a trial of an election petition though within the realm of civil law is akin to trial on a criminal charge. Therefore, two consequences follow i.e., firstly, the allegations relating to commission of a corrupt practice should be sufficiently clear and stated prscisely so as to afford the person charged a full opportunity of meeting the same and secondly, the chages when put to issue should be proved by clear, cogent and credible evidence. To prove charge of corrupt practice a mere preponderance of probabilities would not be enough. There would be a presumption of innocence available to the person charged. The charge shall have to be proved to the hilt, the standard of proof being the same as in a criminal trial (See Quamarul Islam v. S. K. Kanta AIR 1994 SC 1733, F.A. Sapa v. Singora (1991) 3 SCC 375, Manohar Joshi v. Damodar Tatyaba (1991) 2 SCC 342 and Ram Singh v. Col. Ram Singh AIR 1986 SC3.

49. It has been further held in *Jeet Mohinder Singh (supra),* that section 83 of the Act requires every election petition to contain a concise statement of material facts on which the petitioner relies. If the election petition alleges commission of corrupt practice at the election, the election petition shall set forth full particulars of any corrupt practice including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice. Every election petition must be signed and verified by the appellant in the manner laid down for the verification of pleadings in CPC. An election petition alleging corrupt practice is required to be accompanied by an affidavit in Form 25 read with Rule 94-A of the Conduct of Election Rules, 1961. Form25 contemplates the verious particulars as to the corrupt practices mentioned in the election petition being verified by the appelance separately under two headings; (i) which of such statemnts including particulars are true to the appellant's own knowledge, and (ii) which of the statements including the particulars are true to information of the appellant. It has been held in *Gajanan Krishnaji Bapat case (supra)* that the election petitoner is also obliged to disclose his source of information in respect of the commission of the corrupt practice.

50. Further in case of *Kamalnath Vs. Sudesh Verma (2002) 2 SCC 410.* the Supereme court has further held that mere non-disclosure of expenditure will not be a corrupt practice but incurring of expenditure in excess of the prescribed limit would be a corrupt practice. It was further observed that on a combined reading of sections 77 & 123(6) of the Act, 1951 it is explicitly clear that the excess expenditure must be incurred by the candidate or by any person authorized by the candidate or his election agent. It was held that an expenditure incurred by a third person, who is not authorised by a candidate or who is not an election agent of the candidate, will not be a corrupt practice within the ambit of Section 123(6) of the Act. It would, therefore, be necessary to establish a corrupt practice, as contemplated under Section 123(6) of the Act to plead requisite facts showing authorisation or undertaking of reimbursement by the candidates or his election agent. The court has furhter held that "when maintainability of an election petition is considered from the standpoint as to whether material facts have been pleaded or not in a petition alleging corrupt practice on the ground that expenses incurred by the candiate are more than the prescribed limit, it would be necessary to aver the fact that the candidate has inclurred the expenditure or has authorised any other person to incur the expenditure or that his election agent has incurred the expanditure and futher, the candidate has undertaken the liability to reimburse. These would constitute the material facts of an election petition, which is filed, alleging coruupt practice within the ambit of Section 123(6) read with Section 77 of the Act and Rule 90 of the conduct of Election Rules". Therefore, it would be necessary to examine the residue of averments made in the election petition to find out whether such material facts had in fact been averred in the election petition.

51. further the Supereme Court in case of *Anil Vasudev Salgaonkar Vs. Naresh Kushali Shigaonkar (2009) 9 SCC 310* held at paras 51 & 57 as under.

"51. This Court in Samant N. Balkrishna v. George Fernandez (1969) 3 SCC 238 has expressed itself in no uncertain terms that the omission of a single material fact would lead to an incomplete cause of action and that an election petition without the material facts relating to a corrupt practice is not an election petition at all. In Udhav Singh Vs. Madhav Rao Scindia (1977) 1 SCC 511 the law has been enunciated that all the primary facts which must be proved by a party to establish a cause of action or his defence are material facts. In the context of a charge of corrupt practice it would mean that the basic facts which constitute the ingredients of the particular corrupt practice alleged by the petitioner must be specified in order to succeed on the charge. Whether in an election petition a particular fact is material or not and as such required to be pleaded is dependent on the nature of the charge levelled and the cirumstances of the case. All the facts which are essential to clothe the petition with complete cause of action must be pleaded and failure to plead even a single material fact would amount to disobedience of the mandate of section 83(1)(a). An election petition therefore can be and must be dismissed if it suffers from any such vice. The first ground of challenge must therefore fall.

57. It is settled legal position that all "material facts" must be pleaded by the party in support of the case set up by him within the period of limitation. Since the object and prupose is to enable the opposite party to know the case he has to meet with, in the absence of pleading, a party cannot be allowed to lead evidence. Failure to state even a single material fact will ential dismissal of the election pettiion. The election petition must contain a concise statement of "material facts" on which the petition relies."

52. Further in *(2010) 1 SCC 466-Kattinokkula Murali Krishna v. Veeramalla Koteswara Rao* the Supreme court has held that it is a settled principle of law that evidence beyond the pleadings can neither be permitted to be adduced nor can such evidence be taken into account. As such the standard of proof was amphasized in such case law. Similar view was adopted **in (2000) 8 SCC 191-Ravinder Singh Vs. Janmeja Singh** wherein it was also held that "it is an the established proposition that no evidence can be led on a plea not raised in the pleadings and that no amount of evidence can cure defect in the pleadings".

53. Further in case law reported in *(2014) 1 SCC 46-Regu Mahesh allas Regu Mheswar Rao Vs. Rajendra Pratap Bhanj Dev* the importance of setting out the sources of information in affidavits came up for consideration and it was held that the sources of information should be clearly disclosed. It was also held that real importace of setting out the sources of infomation at the time of presentation of the petition is to give the ohter side notice of the contemporaneous evidence on which the election petition is based and that will give an opportunity to the other side to test the genuiness and veracity of the sources of information.

54. Keeping in view the aforesaid law laid down by the Supreme Court, the pleadings and evidence of the present case are examined together with reference to the pleadings in different paras and available evidence.

55. At para 4 of the petition, it is pleaded that had the returned candidate would not have adopted the corrupt practice, the petitioner would have been elected. At para 5 of the petition, it is pleaded that the entire petion is solely based particularly on the ground u/s 123(6) of the R.P. Act and at para 6 it is sated that the maximum outer-limit of expenditure was prescribed as Rs. 16 Lakhs for the Assembly Constituency. The averments with respect to outer limit of expenditure are not in dispute as would be evident from Ex.P-5, which is a gazette of India wherein Chhattisgarh State is placed at Serial No. 26. For Assembly Election, the outer limit is fixed at Rs. 16 lakhs. The petitioner further at para 7 has stated that if the petitioner would be able to show the expenditure incurred was more than Rs. 16 lakhs, then necessarily the election has to be declared void.

56. Further at para 8 it is pleaded that respondent No. 1 the returned candidate has spent more than Rs. 16 lakhs. In this para, the expenditure which was incurred more than Rs. 16 lakhs has not been stated. The document for this purpose has been exhibited as Ex. P-6 which is an expenditure register wherein (at interval page 114) it shows that the expenditure has been shown by Respondent No. 1 as Rs. 8,48,290/-. The petitioner in his statement has stated that according to him, the expenses of Rs. 46,58,276/- has been incurred and further has exhibited the document Ex.P-8 which is a Register of the expenditure observer wherein the figure of Rs. 14,01,802/- was shown. Now it we refer to Ex. D-2, the figure accepted by DEMC (District Expenditure Monitoring Committee) has been shown Rs. 11,72,702/-. Therefore, the finality of the figure of over expenditure has not been correctly pleaded and proved by the petitioner.

57. The petitioner further at para 9 of the petition stated that some of the expenses were not included by the returned candidate and further some of the expenses which were shown by the respondent have not been added by the expenditure observer. It is stated that the expenditure observer was obliged to include such expenses. Therefore, the pleading is made that had the expenditure observer whould have added such expenses, the figure would have been gone more than maximum presecribed limit. Reading of this para would show that it is silent as to what figure was excluded by the observer which were shown by the returned candidate apart from the expenditure arrived at by the Election Expenditure Observer. It would be the material particulars and omnibus allegation cannot be held to be sufficient and the entire over expenses have been pleaded. As the instant election petition is based solely on fact that expenditure was incurred over and above the prescribed limit, therefore, this part of pleading is held to be completely vague as the respondent could not be taken by surprise by picking up a figure during evidence that such expenditure has not been added by the observer. Had there been pleading, the respondent/returned candidate could have replied to it either by denial or admission but in absence of it, the head-wise non-disclosure of income cannot be considered. Further more, the reading of para 9 would certainly lead to point out that allegations and accusation(s) have been on the expenditure observer that certain expenditure has not been included. The said expenditure observer was not brought before the Court. Consequently apart from the pleading, the plaintiff was required to call the witness in evidence to prove this fact especially when the expenditure observer was an enlisted witness. Therefore, the necessary conclusion is that neither pleadings have been made as to what are the figures which were left out by the Election Expenditure Observer nor it has been proved by the petitioner by calling important witness. In the circumstances, the court may not sit to play the role of auditor over the accounts so accepted by the expenditure observer.

58. Further Para 10 of petition starts with repeated averments that the expenditure observer has not included certain expenditure by the respondent/returned candidate from 01-11-2013 to 08-12-2013 and it is sated that the plaintiff is in possession of various documents. Reading of the petition would show that pleadings are absent as to what were those documents, what was the source of information, what is the authenticity of such docements. Therefore, the best avidence i.e., the election observer who could have thrown light on these issues was withheld for the reasons best known to the petitioner to prove the contents of Para 10.

59. Pleadings and evidence on expenses of nomination rally took place on 01-11-2013 at para 10(a)-(a). Now reverting to para 10(a) of the petition it would reflect that the narrations have been made, in this para in two parts i.e. of nomination rally wherein it is stated that (i) the expenses towards construction of stage has not been added and (ii). Further it is stated that 4000-5000 persons were present in the meeting, most of them were wearing hats having party symbol of lotus and more than 50 vehicles were deployed, In order to prove the same, it is stated that the source of information of such allegations are gathered from the compact disk from which the photographs were taken. The quantification of expenses has been stated to be Rs. 1,11,500/-.

Reading of the entire para do not disclose of the averments that expenses were incurred by returned candidate or his agent. Such pleadings are absent. In order to prove the nomination rallies the petitioner has marked CDs as Ex.P-9 & P-60. Admittedly, the CDs so exhibited are not accompanied by any certificate as required u/s 65-B of the Evidence Act. Therefore as has been held in the foregoing paragraph that the CDs are not admissible in evidence, no reference can be made to such CDs. The photographs are marked as Ex P-10 and since it is stated that the photographs Ex.P-10 have been obtained from CD. the CD having been inadmissible in evidence, consequently Ex.P-10 photographs would also become inadmissible in evidence. In this context Ex.P-30 has been marked by the petitioner which is a communication that certain videography of the nomination was sent to the record room of election commission. The letter is purported to be signed by the Deputy Election Officer. The reference of this letter, however, is completely missing in the pleading. Similar document is Ex.P-31 which is a 'Q' sheet. The pleading to this effect is also completely missing in the petition. Now if we refer to the reply of the respondent for use of the Stage, it is stated that the stage is a permanent structure which was constructed by the Municipal Corporation for which an amount of Rs. 1100/- was paid to the Municipality for the use of stage. The returned candidate has denied the fact that the people were wearign hats and caps of Bjp symbols Since the evidence by petitioner about the preparation of stage and wearing of cap with Bjp symbol are not based on primary evidence as such it would be completely inadmissible to act upon.

60. Further at para 70 of the deposition of the petitioner, it is stated that the quantification of amount of Rs. 1,11,500/- has been stated on an estimation which is being arrived at after viewing the CD. The expenditure is attributed to the barricades and further pettioner has stated at Para 89 of the deposition that with respect to the averments of para 10(a), number of vehicles with flag and banner has been stated after viewing the CD. With respect to CD. P.W. 2 P. Dayanand the returning officer had stated that he cannot say the CDs which were provided by him i.e. Ex. P-9 and Ex. P-60 are one and the same. The same witness further at para 10 again stated that the CD which has been placed and exhibited before the Court cannot be said that the same CD has been placed which was issued. Similar statement has been made by P.W. 3 U.S. Agrawal. The witness P.W. 3 at Para-3, on being confronted with the CDs exhibited has stated that the CDs which were issued were containing the date, time, particulars of the programme and the place and it was written in the CD and the CD having been confronted, he stated that he cannot confirm that the same CD has been exhibited. On this issue DW-3 the Chief Municipal Officer with respect to the stage had stated that for use of Gandhi Maidan after obtaining permission from SDO, the premises is allowed to be used and Rs. 1100/- is being charged. It is further stated that Rs. 1100/- was charged from returned candidate Ashok Sahu for the use of Gandhi Maidan. With respect to the stage, it is stated that the permanent stage is constructed in Gandhi Maidan and no furhter erection of stage is required. The Documents Ex. D-7 & D-8 have been marked which show the position of the stage and Gandhi Maidan. Therefore, comparing the pleadings and evidence would lead to show that the petitioner has not been able to establish by pleading and proof the expenditure at nomination rally held on 01-11-2013. The oral evidence and the source of information has been made only on the basis of CDs which are admissible in evidence, therefore, such or a evidence would also become inadmissible in the result, it is held that the allegations of para 10(a) about over expenditure in the nomination rally have not been proved.

61. PLEADINGS AND EVIDENCE WITH RESPECT TO ALLEGED EXPENDITURE OF PUBLIC MEETING OF SU. SHRI UMA BHARTI HELD ON 09-11-2013 AT PARA 10(B)

(i) The petitioner has averred that 500 feet running barricades were made therefore taking the rate of barricades @ Rs. 50/- per feet and Rs. 50/- should have been taken instead of Rs. 1000/-. No quantification has been made with respect to barricades in the pleadings. Further the expenditure of Rs. 6000/- for construction of stage has been alleged to be not included thereby the total expenditure has been quantified to be Rs. 30,000/-. In such para, the source of information has not been stated. It is also not pleaded that the expenditure of Rs. 6000/- for the stage was borne by the returned candidate. The copy of the CD in this regard is marked as Annexure P-11 and the photographs of the said CD are marked as Ex. P-12. Further to prove Ex. P-62 the CD of the rally of Uma Bharti has been stated at Para 49 by the petitioner. The respondents as against this has stated that the barricades were not made and only bamboos were installed and Rs. 1000/- was paid for the tent used for the set up.Ex.P-11 the CD has been stated to be obtained by the petitioner from the District Election Officer. At para 71 of deposition the fact of 500 feet barricades has been stated on the basis of CD. In the statement of P.W. 1 at Para 73. It is stated that the expenses of Rs. 30,000/- have been written after watching the C.D. The witness P.W. 2 the returning officer on being confronted with Ex. P 11 & P-62 has denied the same and stated that he cannot say that the exhibited CDs are the same CDs which were issued. Similary statement has been made by P.W. 3 the video team incharge, therefore, the authenticity of the CDs. not be taken into consideration as the same have not been prove beyond doubt and are not accompained by necessary certificate.

62. Since the allegations of para 10(b) with respect to source of information is based on CD, therefore, after reading the facts, pleading and evidence, it is held that the petitioner has failed to prove the averments of para 10(b) with respect to over expenditure incurred at rally of Su. Shri Uma Bharti.

63. PLEADING 8 EVIDENCE WITH RESPECT TO KALA JATHHA FOR 10-11-2013 TO 17-11-2013 at para 10 (c) of the petitioner.

Now, coming to the pleadings and evidence with respect to performance of kala Jathha, it is pleaded at para 10(c) that during the course of election campaign, kala jathha had performed from 10th to 17th November, 2013. It is stated that Rs. 1 lakh 'might' have been incurred as the troop of kala jathha had come from out side of Kawardha. The pleading do not disclose the source of information. Further particulars of ex-penses of lodging, boarding etc., whether they stayed in a lodge or private house has not been stated. The relevant document is marked as EX. P.-13. The document Ex. P. 13 purports a permission granted for the purpose of Kala jathha. The returned candidate had stated that only 4 persons of Kala jthha were engaged. The returned candidate had admitted the fact that Kala jathha team had performed for 8 days. It is stated that 4 persons were engaged @ Rs. 2000/- per day and they were permitted to move around on the vehicle. The petitioner in his deposition at para 74 had stated that the "estimated" expenses of Rs. 1 lakh has not been disclosed by any one but it is stated on the basis of the permission granted it is further stated that since the performance was made from 10-11-2013 to 17-11-2013, as such, he has "estimated" the expenses of Rs. 1 lakh. The pleading shows the basis for which "estimation" has been stated is not pleaded and placed on record. Further at para 190 of the deposition the petitioner has stated that the expenses of Rs. 88,200/-, 66,150, 5000/-, 45,000/-, 40,50/-, 39,050/-, 22,050/- & Rs. 27,000/- have not been pleaded in the petition though had stated in the affidavit. Further the petitioner has volunteered that the expenses of Rs. 1 lakh has been pleaded on "estimation".

64. Further at para 245 of deposition, it is contended that pettioner himself has not seen the performance of kala jathha, however stated that programme had taken place for which the permission was obtained. In this context, if the affidavit attahced with the petition is referred, at para (a) of the affidavit, it is stated that the contents of para 1(a) to (o), of the election petition are true to the personal knowledge of the petitioner. Further again in the affidavit attached to the election petition at para 2 it is stated that the contents of para 1 to 16 of the election petition are true to the personal knowledge of the petitioner. Therefore, if the affidavit and the statements are read together it contradicts each other as at one part it is stated that he has not seen the performence of kala jathha personally but in the affidavit attaceed to the petition, it is stated that it is true to the personal knowledge which includes the performance of kala jathha, The petitioner further has stated that the entire expenses has been asserted on the basis of assumption, particularly, the amount of expenses has been stated in exmination-in-chief, but it does not find in the petition. If the petitioner wanted to assert that particular amount of expenditure has been incurred then in such a case, it is to be pleaded, Neither the particulas of such pleadings are present in the pettiion nor the proof of facts have been established that the petitioner has personally seen the performance of Kala jathha. Therefore, on admission of respondent No. 1 that Kala jathha has been performed, it cannot be presumed hypothetically that the expenses as asserted by the petitioner was incurred. So the expenditure estimated by the petitioner with respect to Kala jathha, is not proved beyond reasonable doubt. As a result, it is held that the averments made in para 10(c) has not been proved.

65. PLEADEING AND EVIDENCE WITH RESPECT TO CULTURAL PROGRAMME AT 8 VILLAGES ON 11.11.2013 & 12.11.2013. At para 10(d) it is pleaded that on 11.11.2013 & 12.11.2013 the cultural programme was conducted at the instance of returned candidate at 8 villages. In reply to this the respondent has denied the entire averments. It is further stated that cultural programme for the entire State of Chhattisgarh was organized by the State B.J.P., and not by the answering respondent and only loud speakers were provided by this respondent which has already been shown. The reading of petition would show that the source of income again has not been stated in his pleading. At para 78 of the deposition, the petitioner has stated that the expenses has been projected on the basis of permission which was granted. Ex.P-14 is the document of permission granted for such performance. The pleading is absent as to in which villages such programmes were organized. Further in deposition of P.W. 1 at Para 246, it is further admitted that the programmes which were conducted in 8 villages were not seen by the petitioner in person. Further it is also admitted that names of those persons who have seen the programmes have also not been stated in affidavit and only assessment of expenditure has been made on the basis of persmission granted. Therefore, when specific incidence o over expenditure is alleged in such case the petitioner was obliged to again prove the fact that the cultural programmes were actually organized in 8 villages and the expenses as shown, were incurred. Even if such permissions for the purpose of programme are admitted, in absence of any proof that actually any programme took place at the instance of Respondent No. 1 the returned candidate, again the presumption cannot replace the burden of actual proof.

66. In the result, the pleading and evidence made at Para 10(d) would lead to show that the pettioner has categorically failed to prove the fact that actually the programme had taken place with an expenditure as stated by the petitioner, So from the pleading and evidence, it cannot be held to be proved that Respondent No. 1 has incurred the expenses in such cultural programmes as alleged by the petitioner.

67. PLEADINGS AND EVIDENCE OF RALLY OF SHRI NARENDRA MODI AS PLEADED AT PARAS 10(e) & with respect to rally of star campaigners at para 10 (e) & (f) the expenditure has been pleaded about the rally conducted by Shri Narendra Modi. It is stated that number of vehicles were used with the flags and posters of Bjp and the persons who participated in the rally when asked by the observer, they had stated that they had come at the instance of the returned candidate. The said rally was stated to be organized on 14-11-2013. The pleading shows a list of 12 vehicles with flags and banners. It is further pleaded that amount of Rs. 20,300/- ought to have been shown or added by the returned candidate or by the observer in the statement of account. Further reading would show that it is alleged that the said meeting was addressed by Narendra Modi Chief Minister of Gujrat and Dr. Raman Singh, Chief Minister of Chhattisgarh wherein 15000-20000 people were present. The barricades have been stated to be used for 1000 feet and thereby Rs. 50,000/- towards expenses should have been added as per the rate fixed by the Election Commission, therefore, less amount has been added. In reply, to this para, the returned candidate has stated that it was a meeting of two constituencies i.e. Kawardha and Pandariya Kawardha is a constituency where the returned candidate and pettioner had contested in reply. It is further stated that the entire expenses for the banners had been shown in the account. Further in reply it is stated that the vehicles were passing through the road at the time were shown and only one vehicle was having banner and persmission and the rest of vehicles were of passersby or visitors. It is further stated in reply that the respondent has paid Rs. 43,530/- towards expenses of tent house and bamboos. Reading of para 10(e) & (f) would indicate that source of information has not been stated.

68. In order to establish the said rally, the pettioner has placed on record Ex.P-15 the CD, P-16 the photographs taken out from the said CD (P-15). The other CDs are marked as Ex.P-63, Ex.P-64 & Ex.P-65. Admittedly all the CDs do not contain any certificate as required u/s 65B of the Evidence Act. Therefore, as discussed herein before, are inadmissible in evidence. So the entire source of information as has been stated to be is based on CD and the pleading made in this regard cannot be accepted.

69. Now if the statement of the pettioner is referred, the averments have been made that on 14-11-2013 a public meeting was held by Shri Narendra Modi of Bhartiya Janta Party in favour of Ashok Sahu and the CD was stated to be Ex.P-15. It was stated that the said CD was obtained from the District Election Officer. With respect to Ex. P-63 which is stated to be CD of the public meeting held by Shri Narendra Modi in favour of Ashok Sahu at Sardar Patel Ground it is stated to be obtained from Collector's office. Ex. P-64 is stated to be a CD wherein Pramod Kumar the expenditure observer has been shown to have been making enquiry with respect to the same rally of Narendra Modi with respect to the vehicle used by the persons participated in such meeting Ex. P-65 has been stated to be the CD of the same rally organized by Narendra Modi wherein it is stated that it was obtained from Collector's office. Therefore, two statements are on record. The CD Ex. P-15 has been stated to have been received from the District Election Office whereas the other CD has been stated to have been received from the office of Collector. Further the deposition of petitioner at para 81 would show that the petitioner has stated about the number of vehicle which has been shown in the petition is deposed after watching the CD. At para 82 of deposition the petitioner further stated that the averments of para 10(e) of the petition with respect to expenditure of Rs. 20,000/- has been made after watching the CD. Para 83 & 84 of deposition further stated about the presence of 15000-20000 people, which is made on the basis of CD. it is also stated that facts are narrated both on the basis of CD as also on the personal information as he had happened to pass through the place, on the same day of rally. The petitioner, however, has denied the averments that he has personally seen the said rally of Narendra Modi on 14-11-2013.

70. Further at Para 247 the petitioner has stated that the averments of para 10(e) & 10(f) with respect to number of persons present at the rally organized on 14-11-2013, assertions have been made on the basis of CD. The petitioner had admitted the fact that in para 10(f) of the petition it was mentioned that about 15000-20000 people were present in the rally. On being specifically asked, in reply, the petitioner has stated that at para 15 of the affidavit, the presence of 10000-12000 people has been mentioned on the basis of CD since he had seen the CD at the time of filing the petition as also thereafter. The statement would show that the petitioner has maintained the stand that both the statements are correct about the number of people present i.e. 10000-12000 made in the affidavit and subsequently as has been stated of number of people of 15000-20000. The pleading and evidence would show that with respect to rally at one part the petitioner has contended that the entire use of expenditure like tent, barricades further runnig of vehicles and the presence of persons have beeen made on the basis of CD and furhter in cross-examination it is stated that he himself has seen the rally on the same day as he was a passerby. Therefore, the inconsistency in pleading and proof exists. Further if once the CDs are produced as source of information is revealed on the basis of CD then in such eventuality by virtue of section 59 of the Evidence Act, oral statement would be inadmissible in evidence.

71. With respect to oral evidence reading it with the pleading, the source of information has been stated to be from the CD and if the CDs are inadmissible then in such case entire base of allegations fall to the ground. It is noteworthy to add that when the allegation of corupt practice is made mainly on the ground of expenditure over the limit prescribed, the proof of evidence in election petition being the quasi criminal in nature, it has to be specifically pleaded and proved that the said expenses were made with the consent of the candidate and it would be necessary to over the facts that the candidate has incurred expenditure or has authorised any person to incur the expenditure or that his election agent has incurred the expenditure and further the candidate has undertaken the liability to reimburse. So in absence of clear proof, pleading and evidence it would be in the realm of conjecture requiring the court to draw inference by adopting an involved process of reasoning and that would not satisfy the requirement of the pleading of the material facts and proof thereof. Therefore, the averments of expenditure of rally conducted by Shri Narendra Modi has not been proved beyond reasonable doubt.

72. PLEADING AND EVIDENCE OF RALLY ORGANISED BY Dr. RAMAN SINGH ON 15-11-2013-With respect to road show held by Raman Singh, the Chief Minister of Chhattisgarh on 15-11-2013 at village Podi and Kawardha, it is pleaded at para 10(g) of the petition that the observer has added an amount of Rs. 3840/-, but at least a sum of Rs. 10,000/- should have been included. In reply, the respondent has stated that the amount of Rs. 1250/- has been shown for the expenditure incurred for the stage and loud speaker. It has been stated by the respondent that it was a road show ending on a particular place and therefore, the small gathering of road show was addressed by Dr. Raman Singh and there was no need to install a full stage. In this para or petitiion, the source of information has not been stated. It is also not specifically pleaded whether respondent No. 1 was present in the said road show or gathering. The information has been stated to be based on Ex.P-18 i.e. compact disk. Admittedly no certificate has been attached as required u/s 65-B of the Evidence Act, therefore, the source of information as has been stated to have been based on the CD cannot be accepted as the CD itself is inadmissible in evidence. At para 52 of the statement, the petitioner contendedthat the said CD Ex.P-66 was taken from the Collector's office and categorically-contended that the allegation of road show conducted by Raman Singh is based on the basis of CD.

73. With respect to averments made in para 10(g) of petition, the statements have been made at para 86 of deposition. The petitioner at Para 248 of deposition has admitted that he has not stated that the said road show was related to the election, if the pleading and evidence are read together, it would go to show that the pleading and evidence of facts are adduced on the basis of CD. Nowhere it is stated that the programme was organized by the returned candidate or the returned candidate was present at such road show. Therefore, the allegations so made at para 10(g), the petitioner has not been able to prove the fact to the satisfaction of the Court that the rally organized by Raman Singh was at the behest of the returned candidate so as to hold the expenses at the instance of respondent returned candidate. Therefore, in the facts and circumstances, the averments of para 10(g) with respect to corrupt practice cannot be held to be proved.

74. In the context of above, the petitioner has further contended that for the second phase of Kawardha polling, no list of candidates of star campainers was given within the stipulated time and date. It is contended that the notification was made on 25-10-2013 and therefore, as per instruction 38 of the Hand Book instructions and Section 77 of the R.P. Act, 1951 if the list has not been given within 7 days to the Election Commission and the Chief Electoral Office from the date of notification, the travelling expenses has to be included in the

expenses of returned candidate. The documents with respect to communications on relevant issues are marked as Ex. D-4, Ex. D-9, & Ex D-10. Now the question arises as to whether they satisfy the requirement of Explanation-2 to Section 77(1) of the R.P. Act, 1951? The section mandates that the list of the leaders of political party i.e. the star campaigners should have been given within a period of 7 days from the date of notification. Admittedly, the notification for election was made on 25-10-2013 for the second phase of election of Kawardha. The communication Ex. D-4 is the letter date 02-11-2013 awhich purported to be sent by the joint Chief Election Officer D.D. Singh to the District Election Officer and the Collector, Kawardha. The Letter is with enclosures. It includes the letter of Bjp of C.G., dated -01-11-2013 and enclosure of letter and list of Bjp Election Cell, Delhi dated 31-10-2013 along-with list of star campaigners. Perusal of the entire Ex. D-4 alongwith enclosure would reveal that it contains a letter sent by Bjp Chhattisgarh Pradesh on 01-11-2013 along-with the letter of office of Bjp Delhi dated 31-10-2013 which is an endorsement of the receipt of 31st October, 2013 by Election Commission, of India, by such letter, the BJP Election cell, Delhi had given the list of star campaigners to election Commission New Delhi Perusal of the list of safar campaigners would show that it includs the names of shri Narendra Modi Dr. Raman Singh and Su.Shri Uma Bharti at Serial No.-3 9 & 13.

75. The witness D.D. Singh who was examined as P.W. 6 has stated that he was working as joint Chief Election Officer at Chhattisgarh and was posted during the period of election of 2013. He has further stated at Para 8 that the list of star campaigners for the second phase was deposited by the Bjp party at Election Commission at Delhi on 31-10-2013 and with the Chhattisgarh Chief Election Office on 01-11-2013 which was further forwarded by him by letter dated 02-11-2013 to the Collector and District Election Officers. The document Ex.D-4 was confronted at the time of cross examination to the plaintiff witness. In the result, as it was confronted during cross examination, the same is admitted for the purpose of evidence. The document Ex.D-4 is also attached with the letter dated 01-11-2013 of Bjp was sent by Naresh Gupta who is examined as D.W. 2 Naresh Gupta has not denied his signature. The enclosure of Ex. D-4 letter is also marked as Ex. D-10. Therefore, Ex. D-10 & D-4 are one and the same. Ex. D-9 is the list of star campaigners submitted by the office of BJP Delhi dated 31-10-2013. The list of compaigners was deposited in fulfilment to section 77 of the explanation (2) of Representation of People Act, 1951 and the said letter is along-with the letter which also form part of Ex. D-4. The instructions issued by the Election Commission vide instruction No. 5.6.1 would show that it is a direction with respect to the expenditure on account of travel expenses of star campaigners. The instructions have been issued that the Chief Electoral Officer after receiving the information during the prescribed period regarding list of star campaigner from the recognized political party shall make it available to all the Returning Officers/District Election Officer/Expenditure observer and place it on their website. Therefore, the instruction as is given would show that compliance was made by the Chief Electoral Officer in terms of such instructions and in furtherance of explanation (2) of Section 77 of the R.P. Act.

76. Now it we refer to document Ex.P-50, it refers to demand made by the petitioner under RTI with respect to various documents. In such demand at Serial No. 17 the petitioner has asked for details of programme i.e. all the documents and the CD of the star campaigners and other campaigners namely Pawan Diwan, Madhusudan Yadav, Abhishek Singh son of Chief Minister, Veena Singh wife of Raman Singh Chief Minister etc. The said document is a handwritten document which is of 05-05-2014. The petitioner in his statement at para 112 stated that he do not remember that how many times, he had asked for the list of star campaigners and stated that for the second phase of star campaigner he made an application on 05-05-2014.

77. If the statement is further examined with respect to document, Ex.P-50 the demand, a colse scrutiny thereof would show that the petitioner had not requested for any list of star campaigner but instead had requested for document relating to programmes of star campaigners along-with CD. At para 50 of the statement of the petitioner, the petitioner had again stated that he applied for a list of star witnesses of second phase as per Ex.P-50 and again had asked for the list of star campaigner and had also asked for the copy of star campaigner on 30-12-2013. Therefore, two demands are stated to have been made by the petitioner for the list of star campaigners on 30-12-2013. & 05-05-2014. Admittedly, the document dated 30-12-2013 is not on record. The election petition was filed on 20th January 2014. So with respect to the availability of list of star campaigners, as per the instructions of Election Commission No. 5.6.1 the same was required to be placed on website and evidence available would indicate that it was complied. So in order to prove the fact with certainty the pettioner could have availed those documents from the website or could have placed the facts on record that even in the website the said list of political leaders were not available. A close reading of document of demand Ex.P-50 would show that it is dated 05-05-2014. The election petition was filed on 20-01-2014, therefore, it can be inferred in absence of any evidence that petitioner had not made nay effort to get the list of political leaders at the time of filing of petition and demand was made subsequently, therefore, as appears only on assumption and presumption the statements of non-submission of list of political leaders have been made. So considering the available facts jointly would indicate that in reply to RTI made by the

petitioner, reply to demand caluse 17 prescribing as 'Nirank' (zero) can not be interpreted that no list of political leaders i.e., star campaigners were communicated by the political party BJP.

78. It is not a case of petitioner that the documents Ex.D-4, D-9, D-10 which pertains to communications of names of star compaigners are stated to be forged. So as observed that list of star campaigners was furnished the second aspect would be what would be the starting point and last date of such submission to get the benefit to the explanation clause (2) of Section 77(1) of R. P. Act, 1951. Admittedly, the date of second phase of notification was notified on 25-10-2013. Therefore primafacie the 7the day appears to be on 01-11-2013.

79. In order to calculate whether the list was submitted within 7 days of notification, it would be necessary to make a reference of section 9 of the General Clauses Act 1897. For the sake of brevity Section 9 of the General Clauses Act is reproduced hereinbelow;

5.9 Commencement and termination of time,-

(1) In any [Central Act] or Regulation made after the commencement of this Act, it shall be sufficient for the purpose of excluding the first in a series of days or any other period of time to use the word "from" and, for the purpose of including the last in a series of days or any other period of time, to use the word "to"

(2) This section applies also to all [Ceneral Acts] made after the third day of January, 1868, and to all regulations made on or after the fouteenth day of January 1887." therefore by application of the aforesaid section, when the notification was made on 25-10-2013. Such date would be excluded and by addition of 7th day the last for submission of list of political leaders/star campaigners would be on 01-11-2013. The document Ex.D-4, Ex.D-9 and Ex.D-10 would show that the list of leaders by Bhartiya Janta Party was supplied on 31-10-2013 at Election Commission, New Delhi and similar list was deposited with Election Commission, Chhattisgarh on 01-11-2013 by Ex.D-10. Therefore, it can be safely presumed that the list of leaders was deposited by BJP within 7 days of notification of election.

80. Besides this, further when reference is made to section 114(e) of the Evidence Act it raises a presumption of correctness with respect to fact that the Court may presume that the judicial and official act have been regularly performed. The relevent part of section 114(e) of the Evidence Act is reproduced hereinbelow.

114. **Court may presume existence of certian facts.**-The court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.

(e) 'that judicial and official acts have regularly performed;

In this context, witness P.W. 2 P. Dayanand in his statement at para 2 has stated that he was a returning officer for the election of 2013. At para 21 he admitted that for the second phase, he has received the list of star campaigners in his office and the said list was received before the time period the witness P.W. 6 D.D. Singh who was the joint Election Officer of Chhattisgarh at para 1 has stated that he was a joint Election Officer and further at Para 8 has stated that the list of star campaigners was received at office election commission on 31-10-2013 and in the office Chhattisgarh Election Commission on 01-11-2013 and in was forwarded by him to the Collector and District Election Officer on 02-11-2013.

81. Therefore, considering this statement along-with document Ex.D-4 & Ex.D-10 it would raise a presumption that necessary formalities as required were complied with. In order to draw such analogy the principle as laid down in a case law reported in AIR 1934 Privy Council 217-Mohammad Akbar Khan Vs. Mlan Mushraf Shah may be referred which lays down that in absence of any avidence to the contrary, it ought to be presumed that all necessary formalities were complied with.

82. Witness Naresh Chandra Gupa (D.W.2) has stated that the list of star campaigners was submitted to the Chief Election Officer, Chhattisgarh, as such if the link of chain of correspondence is proved with reference to the Statement, the statement of Election Officer would be of much relevance who was in custody of the said document and has deposed in favour of submission of list. The instruction of Election commission at instructions 5.6.1 mandetes to forward copy of list of political leaders to Collector, District Election Officer, Expenditure Observer etc. So the ratio laid down in AIR 1957 SC 857 Mobarik Ali Ahmad Vs. The State of Bombay (at Page 864) would be applicable in the facts of the case. The Court held thus;

"It may also be proved by internal evidence afforded by the contents of the document. This last mode of proof by the contents may be of considerable valug where the disputed document purports to be a link in a chain of correspondence, some links in which are proved to the satisfaction of the Court. In such situation the person who is the recipient of the document, be it either a letter or a telegram, would be in a reasonably good position both with reference to his prior knowledge of the writing or the signature of the alleged sender limited through it, may be as also his knowledge of the subject matter of the chain of correspondence, to speak to its authorship."

83. Here the evaluation of evidence would show the genuine link of chain of correspondence and its authorship has been established thereby all proof of genuineness of the correspondence of Ex.D-4, Ex.D-9 and Ex.D-10 is established that the list of star campaigners was submitted by BJP in compliance with explanation 2 of section 77(1) of the R.P. Act, 1951 and it is proved that the list of political leaders/star campaigners were communicated to election commission and the Chief Electioral Officer within 7 days of the notification. As a result, the travelling expenses incurred over such star campaigner cannot be included in election expenditure of the candidate.

84. THE PLEADING 8 EVIDENCE WITH RESPECT TO THE ROAD SHOW BY Dr. RAMAN SINGH AT PARA 10 (g) OF THE PETITION—with respect to road show held by Dr. Raman Singh on 15-11-2013, it is mentioned at para 10(g). The petitioner has stated that the stage of 500 square feet was made but only Rs. 3840/- was added as expenditure. In this para also the source of information has not been stated and it has been stated that on the basis of Ex.P-18 the C.D. the averments have been made. The respondent returned candidate has denied the averments of para 10(g). It is stated that only the amount was paid for the stage and the loud speakers, The documents to prove the contents of pleading is CD Ex. P-18. P.W.1 has furhter stated that the photographs were taken from Ex.-18 CD and was maked as Ex.P-19, Another CD is marked as Ex.P-66 which has been stated to have been obtained from the Collector's office. Reading of para 10(g) would further indicate that the road show of 25-11-2013 is not alleged to have been related to the election which is further corroborated by the petitioner at para 248 of his deposition. Therefore, the analysis of the entire pleadings and evidence would show that the pleadings have been made on the basis of CD. Since the CD do not containe the certificate as requried u/s 65-B of the Evidence Act, the same is inadmissible. As the CDs Ex.P-18 & Ex.P-66 are inadmissible in evidence, consequently, the photographes Ex.P-19 taken out from the CD would also become inadmissible.

85. PLEADING & EVIDENCE OF MOTORCYCLE RALLY AT PARA 10(h)-At para 10(h) of petition the pleading is made that the rally of 100 motorcycles carrying with flags was organized propagating the cause of returned-candidate and the rally of motorcycles was to pass through 35 kilometers long way and the expenditure of Rs. 15,000/- has been projected. To establish such facts, the petitioner has proved Ex.P.-20 wherein it shows that a permission for the rally of motorcylces from village Khara to Samnapur was given for 17-11-2013 from 2.00 p.m., till the end of compaign. In response to it the returned candidate contended that the rally could not be organized end carried out as the time was very short since the permission was given from 2.00 p.m., onwards and the closing time for canvassing was uptill 5 p.m. on 17-11-2013. In statement of petitioner at para 94, it is stated that organisation of the motorcyles rally was informed to the petitioner by the workers. It was further admitted by the petitioner as to when and where such information was given by the supporters has not been disclosed. The petitioner has further stated that the information was given by Ashok Chopda and Ayub Khan of Raja Nawagaon but this fact has neither been stated in the election petition nor in the affidavit. Therefore, it is evident that only on the basis of hearsay evidence the petitioner has stated that the motorcycle rally was organized, but whether actually it took place has not been proved.

86. At para 10(i) it is stated that for the purpose of propagating the cause of returned candidate, 18 vehicles were used but 8 vehicles have been shown by the observer and further stated that though the permission for 18 vehicles were taken but in such garb, hundreds of vehicles were used including two wheelers and 4 wheelers. Therefore, an additional amount of Rs. 17,300/- should have been added. The entire reading of this para goes to show that it is silent about the source of information. It is also not stated that what was the basis to make such allegation and whether the expenditure was made by the returned candidate or not. In reply, it is stated that 18 vehicles were used and an amount of Rs. 3800/- (it should have been Rs. 30,800/-) as expenditure was incurred. The statement of petitioner would show that such averments were made at para 98 only on the basis of permission which was granted to respondent No. 1 vide Ex.P-21. At Para 100, it has been further stated that averments of hundreds of vehicles were plying was made on the basis of general talk in the area. The petitioner admitted the fact that he has not stated as to who has disclosed these facts and again has resorted to CD as source of information. Therefore, the pleadings and evidence would go to show that it is very vague in nature and no definite evidence is on record to show that actually how much number of Vhicles ware usjed on the day. Again the evidence of the petitioner is based on hearsay and therefore on the basis of permission actual expenditure of assessment cannot be done.

87. Further with respect to pleading at para 10(J) of expenses incurred on polling day, it is pleaded that at about 386 booths were functioning and on each booth agents were appointed and the returned candidate though has shown Rs. 38,600/- but it is less by Rs. 14,000/-. It is further stated that 7 vehicles would have been plied by the respondent and therefore anohter figure of Rs. 52600 should have been added. In reply to it, it is stated by the returned candidate that the polling agents were local residents and therefore, no vehicle was used and breakfast and lunch were provided @ Rs. 200/- per head. The pleadings if are examined, it would show that the figure has been assessed on the basis of presumption. The source of information has also not been stated. The petitioner in has evidence at para 101 admitted that the expenses of Rs. 14000/- has not been disclosed but stated that on the basis of guidelines, it is presumed. About the distribution of food packets the petitioner stated that in 2-3 booths he has seen that food packets were distributed whereas in respect of other books about the distribution of food packets, It is stated that the information was received from the workers. Therefore, no primary evidence is placed on record and evidence of distribution of food packets is confined only to 2-3 booths, rest of the information has been stated to be on the information of the workers is hearsay. Though the petition supported by the affidavit states that the averments of petition have been made on the basis of personal knowledge, but the evidence destroys the same. In the result, for the reason of conflict of statements and hearsay evidence, the petitioner has failed to prove the contents thereon.

88. At para 10(k) of the petition, the pleading is made about the programme of 18-12-2013 (wrongly typed as 08-12-2013) when the counting had taken place. It is stated that 15 agents were deployed by respondent No. 1 and only expenditure of Rs. 2030/- has been shown but Rs. 10,000/- should have been incurred. The pleadings are also vague as the source of information has not been pleaded. It is also not pleaded that the said expenditure was made by returned candidate or his agent. In reply it is contended that the counting agents were local residents and therefore no separate vehicles were used. It is further stated that the returned candidate has provided breakfast and lunch for which the expenses were counted for. Now reverting to evidence of the petitioner, at para 104 of the statement, the petitioner admitted the fact that it is not stated as to who had given such information of 15 agents. He has further stated that it was on his personal information. Therefore, no evidence is on record to accept the version of the petitioner. In the result, the pleading and evidence of para 10(k) also fails.

89. With respect of para 10(L) and (m) the averments have been made about the list of star campaigners that the communication was not supplied as per Section 77 of R.P. Act and therefore the expenses are to be added. As discussed earlier in the foregoing paragraphs it is held that the list of star campaigners was submitted within the specified time of 7 days from the date of notification, consequently the expenses incurred by the star campaigner was not included. The petitioner though had made averments that the expenses of helicopter of Rs. 70,000/- per hour for service charges is quantified to Rs. 7,86,520/- but the source of information is again silent along-with the fact that the pleading is absent to show that the expenditure was made by the returned candidate. Even otherwise since it is held that the list of names of political leaders was furnished in terms of explanation (2) of Section 77(1) of the R.P. Act 1957, as such, the-expenses incurred for travelling of star campaigners/leaders of political party would be exempted to be counted on the head of election expenditure.

90. The petitioner has exhibited the document as Ex.P-22 which is the list of the star campaigners. Ex.P-23 is document of permission of landing of Dr. Raman Singh for 15-11-2013 Similarly Ex.P-24 is exhibited which is also landing permission of Helicopter of Dr. Raman Singh of 14-11-2013. Ex.P-25 is the permission of landing of helicopter of Shri Narendra Modi, the Chief Minister of Gujrat alongwith Dr. Raman Singh. Likewise, Ex.P-26 is exhibited for landing permission of Su. Shri Uma Bharti on 09-11-2013. Ex. P. 28 is also the landing permission of helicopter of 02.11.2013. Exhibits P-23, 24, 25 & 26 purport that the said visit was made by Shri Raman Singh, Shri Narendra Modi and Su Shri Uma Bharti for election compaign for respondent No. 1 Ashok Sahu. Since their names were shown at satar campaigners as such the expenditure cannot be taken into account for the purpose expenditure made by R-1/returned candidate. Ex.P-28 purports that it was peronal visit of Dr. Raman Singh and therefore cannot be considered on the head of expenses. The document Ex.P-33 is the expenditure for the helicopter. Likewise P-46 is the receipt of expenditure for helipad. Ex.P-47 is also a receipt of expenditure for helipad. The document Ex.P-48 is a receipt issued by the Municipal Council Kawardha showing payment to the Municipal Council for water tanker. Ex.P-49 is also a receipt for landing of helicopter. Ex.P.-54 is the application to get permission for landing of helicopter of Shri Narendra Modi, C.M., of Gujrat and tour programme of Narendra Modi is

marked as Ex.P-55. The tour programme of the landing permision of helicopter of Raman Singh for 18the & 19th is marked as Ex.P-56. Ex.P-56 would show that it was for the purpose of Chief Minister to cast his vote at his native place i.e., Kawardha and tour programme of Chief Minister Raman Singh is marked as Ex.P-56. Ex.P-57 is tour programme of Uma Bharti. Again tour programme of Dr. Raman Singh is marked as Ex.P-58.

91. Perrusal of the aforesaid documents would show that though the documents have been exhibited, but no pleadings in this regard has been made. Further more, the names of persons i.e., Nerendra Modi, Dr. Raman Singh, for whom the permission was granted for landing of helicopter were included in the star campaigners list. Therefore, the travelling expensess incurred for the star campaigners i.e., political leaders could not be included as per section 77 explianations 1 & 2 of the R.P. Act of 1951. The names of star capaigners has been further corroborated by Ex.D-10 wherein the list of star compaigners was submitted at the election commission of india on 31.10.2013 and further the receipt of such list of star campaigners is proved by the Chief Electoral Officer of the State as per Ex.D-4. The overall evidence and pleadings would lead to prove that the contention as has been made by the petitioner that the list of star campaigners was not submitted cannot be accepted. Therefore, the documents which have been exhibited for the travel expenses incurred for the star campaigners become completely ineffective for the decision of the issue raised.

92. It is further pleaded at para 10(n) that other campaigners of Bjp had come to kawardha namely Madhusudan Yadav, Pawan Diwan and Abhishek Singh and lots of vehicles were used by them and the expenses have not been shown and therefore an amount of Rs. 12,000/- should have been added. The allegations itself are so vague that the petitioner himself has not stated that how many vehicles wee deployed and where they were plying and at whose instance the vehicles were used. It is also not stated that the returned candidate had made an expenditure. It is alleged that Madhusudan Yadav conducted the meeting. A perusal of the name of star compaigner which is filed as Annexure D-4 would show at Serial No. 31, the name of Madhusudan Yadav is shown. The evidence with repect to para 10(n) at Para 115 of deposition, the petitioner has admitted the fact that he had not pleaded that where and when Madhusudan Yadav had organized the meeting.

93. Similar statement is made at para 117 which speaks about Abhishek Singh and admitted the fact that he is local resident of Kawardha. It is further admitted fact that when and where Abhishek Singh and conducted the rally has not been disclosed. With respect to Raghu Raj Singh at para 118 of deposition it is stated that the petitioner has not mentioned that when and where Raghu Raj Singh has campaigned and organized the meeting. He admitted this fact that he was the chairman of Sugar factory which comes under the Kawardha. On a suggestion being made, the petitioner has stated that he has no knowledge that whether Raghuraj Singh being Chairman of Sugar unit whether often visits the sugar factory at Kawardha or not ?. With respect to use of vehicles, at para 119 of statement, it is stated that the number of vehicles have not been disclosed. The petitioner though has stated that large number of vehicles were used but it is not pleaded in the petition which vehicle was used by whom and when and where the vehicles were used. As against this the respondent has stated that he has disclosed the use of vehicle by Pawan Diwan and the expenses were stated in the account. Therefore, pleadings and evidence with respect to expenses incurred in various rallies has also not been proved as is expected in the election petition.

94. At para 10 of petition, certain derogatory remarks made by Madhusudan Yadav has been shown but consideration of this averment becomes irrelevant as nothing has been placed on record to substantially establish these allegations. Further at para 11, the petitioner has alleged that the total expenses incurred by the returned candidate was Rs. 25,96,380/-. It is further alleged that the returned candidate has shown the expenditure of Rs. 14,01,800/- (as per the shadow register) therefore, an amount of Rs. 12,33,380/- towards expenditure has not been included. In reply to this para, respondent has stated that he has shown its expenditure as Rs. 8,48,290/- which is evident from the last page of Ex.D-6 signed by the respondent and final figure accepted by the election commission is shown at the last page Ex.D-2 to be Rs. 11,72,702/-. The witness P.W. 2 the returning officer P. Dayanand has stated at para 18 that the returned candidate has raised objection with respect to the expenditure shown by the observer as the observer has shown the expenses of Rs. 14,01,802/-. The officer further admitted the fact that the objection made by the returned candidate was decided in the meeting of DEMC Committee and further admitted that after considering the objection of Ashok Sahu, Rs. 11,72,702/- was accepted to be the correct and final expenditure shown by the returned candidate.

95. The petitioner though has stated that no meeting of DEMC was held but in order to establish the fact has not called the expenditure observer in the witness box though his name was proposed as a witness. The petitioner has challenged the authenticity of expenditure of final figure made by the expenditure observer of Rs. 14,01,802/-. Therefore in order to challenge such credibility, the expenditure observer who settled the final figure should have been brought before this court by the petitioner to demolish the final account settled. Petitioner witness P.W. 2 during cross examination at para 29 of deposition had admitted that DEMC meeting was held and after the objection was raised by Ashok Sahu the expenses shown in the shadow register i.e. Rs. 14,01,802/- was corrected.

96. The returned candidate (D.W.1) has stated that after the objection was raised, the expenses were brought down to Rs. 11,72,702/-. Now if we refer to Document Ex D-2 the last page of Ex.D-2 shows an amount of Rs. 11,72,702/- is figured out.

97. The document Ex.D-3 is the report of District Election Officer wherein the expenses of account were reconciled as few of expenses which were shown initially by expenditure observer were not accounted for and likewise the expenses accounted for by returned candidate which were not shown by expenditure observer were considered like expenses on banners and posters, expenses shown on the date of result dated 08.12.2013 etc. So the perusal of Ex.D-5 and Ex,D-3 would show that consequential calculation was arrived at Ex.D-5 which the basis calculations were made at Ex. D-3 and finally Rs. 11,72,702/- was arrived at. So the contention of petitioner on the basis of account so furnished, it is not established that expenses over and above Rs. 16 Lakhs were incurred.

98. If further reference is made to the petition at para 11, the expenditure has been shown by the petitioner is Rs. 25,96,380/- in the affidavit at para 20, the petitioner has stated that the additional expenses of Rs. 30,06,474/- was incurred and with the addition of Rs. 14,01,802/-, the amount of expenditure inflates to be shown as Rs. 44,08,276/-, in further examination before the Court at Para 4, the petitioner has stated that expenditure of Rs. 46,58,276/- was made by the respondent. Therefore, an inconsistency has been shown in the figure of expenditure and the petitiner himself has not been able to place the facts conclusively about the correct figure. When the petition is primarily based on over-expenditure, certainly it would be necessary for the petitioner to substantiate the actual figure and minor discrepancies may be accepted but not in the nature pleaded and proved. It cannot be left open to the will of the petitioner that at different points of time, different
figures are allowed to be floated to catch the repondent by surprise.

99. So in the light of the discussion made herein above when the case is examined, it would lead to show that the plea raised on behalf of the petitioner while canvassing the commission of corrupt practice by respondent No. 1, the petitioner has failed to prove the same as it is a settled principle that in the matter of election jurisprudence, the success of a candidate who has won at an election should not be lightly interfered with and any petition seeking such interference must strictly conform to the requirements of law. The setting aside of election involves serious consequenses not only for the returned candidate and the constituency, but also for the public at large inasmuch as re-election involves an enormous load on the public funds and administration. The charge of corrupt practice is quasi criminal in character. Therefore, a trial of an election petition though within the realm of civil law is akin to rial on a criminal charge. The allegations relating to commission of a courrupt practice should be sufficiently clear and stated precisely so as to afford the person chaged with full opportunity of meeting the same. Secondly, the charges when put to issue should be proved by clear, cogent and credible evidence. To prove charge of corrupt practice a mere preponderance of probailities would not be enough and the charge will have to be proved to the hilt, the standard of proof being the same as in a criminal trial.

100. Further while going through the pleading and evidence, it would show that durnig the evidence minute particulars of expenses head-wise was stated but the same do not find place in pleading. As a consequence the returned candidate was not provided with any opportunity to answer the same in absence of pleading. The submission of the petitioner that the pleadings were sufficient as it was held by this Court in its order dated 30.07.2014 cannot to aid of petitioner for the reason that at that stage when such orders were passed the written statement by the respondent was not filed. Subsequently after filing of the written statement on the basis of denial, the issues were framed. Since in written statement the averments of petition were not admitted. It was for the petitioner to prove the case like nature of a criminal case and in absence of pleading, the evidence could not be looked into.

101. Further Perusal of affidavit and statement before the Court shows that lot of differences exists in the statement of the petitioner. In the affidavit filed along-with the petition shows that the averments have been stated to be based on personal knowledge of the petitioner but in the cross examination it was negated and narrated that the information was gathered from other sources. Therefore, the petitioner has failed to demarcate the line to prove that which of the statements including particulars are true to the petitioner's own knowledge and which of the statements including particulars are true to the information of petitioner.

102. Further, the averments and the evidence led is vague and they are in general statement without any evidentiary value thereof. Therefore, on scrutiny of the entire facts i.e. the pleading and evidence it would be in the realm of conjecture to uphold the contention of the petitioner that the expenditure were incurred over and above the limit as the witnesses of petitioner i.e., refurning officer itself had admitted the fact that Rs. 11,72,702/- was accepted as correct expenditure. Such evidene led on behalf of the petitioner cannot be sidelined and for all purposes, the witnesses of the petitioner has demolished the case of the petitioner.

103. In view of the discussion made herein above, the Court has no hesitation to come to conclusion that the pleading and evidence are lacking to uphold the contention of the petitioner and in the result the election petition is liable to be dismissed.

104. Now reverting to issue No. 3 and issue no. 4 as to whether the petitioner is entitled to be declared as a returned candidate, the submission of the petitioner that since the electors were purchased by incurring more expenses by the respondent/returned candidate, therefore, free will of franchise was affected and in order to arrest the further expenditure of public chequer, the petitioner should be elected by applying the Duckworth Lewis law in Cricket field is completely without any base or substance. Counsel for the petitioner has placed reliance in (2015) 3 SCC 467 Krishna Moorthy Vs. Sivakumar and others and stated that since the respondent candidate had resorted to illegitimate canvassing, the election needs to be set aside by declaring the petitioner to be returned candidate. The proposition so advanced on the basis of law cited do not support the petitioner in the given proved set of facts available. The submission of the petitioner that ratable distribution of the votes to be made of person who have voted as NOTA i.e. "None of the Above" is misconceived. If such logic is accepted, in such case it would destory the basic feature of the democracy.

105. In view of the above conclusion, this court is of the view that the petitioner has failed to prove that corrupt practice was committed by the returned candidate by incurring expenses more than the prescribed limit. As an upshot of discussions, the election petition is liable to be dismissed and is hereby dismissed. No order as to costs.

Sd/-
GOUTAM BHADURI
JUDGE.

आदेश से,

हस्ता./-
(के. एन. भार)
सचिव,
भारत निर्वाचन आयोग.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road, New Delhi-110001

New Delhi, dated 14th June, 2017—24 Jyaistha, 1939 (Saka)

No. 82/CG-LA/(4/2014)/2017.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby published order dated the 4th May, 2016 of the High Court of Chhattisgarh Bilaspur in Election Petition No. 04 of 2014.

कार्यालय मुख्य निर्वाचन पदाधिकारी, छत्तीसगढ़
शास्त्री चौक, पुराना मंत्रालय परिसर, रायपुर

रायपुर, दिनांक 23 जून 2017

फा.क्र-18/03/निर्वाचन याचिका/2017/618.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में भारत निर्वाचन आयोग द्वारा निर्वाचन अर्जी संख्या-04/2014 में दिए गए उच्च न्यायालय, छत्तीसगढ़, बिलासपुर के आदेश दिनांक 4 मई, 2016 को प्रकाशित करने वाली अधिसूचना को राज्य के शासकीय राजपत्र में सर्वसाधारण की जानकारी हेतु एतद् द्वारा प्रकाशित किया जाता है.

हस्ता./-

(डी. डी. सिंह)
मुख्य निर्वाचन पदाधिकारी.

भारत निर्वाचन आयोग
निर्वाचन सदन, अशोक रोड, नई दिल्ली-110001

नई दिल्ली, तारीख 14 जून, 2017—24 ज्येष्ठ, 1939 (शक)

सं. 82/छ.ग.-वि.स./(04/2014)/2017.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, निर्वाचन आयोग एतद्द्वारा निर्वाचन अर्जी सं. 04/2014 में दिये गये उच्च न्यायालय, छत्तीसगढ़, बिलासपुर के तारीख 4 मई, 2016 के आदेश को प्रकाशित करता है.

HIGH COURT OF CHHATTISGARH, BILASPUR

EP No. 4 of 2014

PETITIONER : 1. Mohammad Akbar S/o Mohammad Rashid agedAbout 57 Years R/o House No. 949, K.K. Road, Maudhapara, Raipur, P.S. Maudhapara, Head Post Office, Malviya Road, Raipur, Tah. & District, Raipur C.G.

VERSUS

RESPONDENTS : 1. Ashok Sahu S/o Purushottam Sahu Aged About 40 Years R/o Guru Govind Singh Marg, Kawardha, Post-Kawardha, Tah. Kawardha, Distt, Kbirdham C.G.

2. Kanhaiyalal Patel S/o Gintiram Patel Aged About 64 Years R/o Bajrangpara, Kohka Ward No. 8, Bhilai, Distt. Durg C.G.

3. Kartik Ram Marar S/o Ganga Ram Marar Aged About 50 Years R/o Bendarchi, Post-Kawardha, Tah. Bodla, Distt. Kabirdham C.G.

4. Krishna Kumar Dahire S/o Shiv Kumar Dahire Aged About 26 Years R/o Lokband, Post-Kargikhurd, P.S. & Tah. Kota, Distt. Bilaspur C.G.

5. Niranjan Khare S/o Alakh Ram Khare Aged About 38 Years R/o Civil Lines, Majgaon-3, Kawardha. Tah. Kawardha, Distt. Kbirdham C.G.

6. Malesh Kumar Markam S/o Sounu Markam Aged About 35 Years R/o Lalpur Khurd, Post- Bodla, Tah. Bodla, Distt. Kabirdham C.G.

7. Himanshu Thakur S/o Rudramani Singh Thakur Aged About 26 Years R/o Maruti Ward, Kabirpara, Kawardha, Post-Kawardha, Distt. Kabirdham C.G.

8. Anil Satnami S/o Bhondu Lal Kathle Aged About 28 Years R/o Jewadan Khurd, Post-Sonbarsa, Tah. Kawardha, Distt. Kabirdham C.G.

9. Jitendra Kumar Purainak S/o Arjun Purainak Aged About 31 Years R/o House No. 22, Shastri Marg, Ghothiya Road, Kawardha, Tah. Kawardha, Distt. Kabirdham C.G.

10. Mohit Sahu S/o Makhan Sahu Aged About 37 Years R/o Khairbana Kala, P.S. Kawardha, Tah. Bodla, Distt. Kabirdham C.G.

For the Petitoner	:	Mr. B.P. Sharma & M.L. Saket, Advs.
For Respondent No. 1	:	Mr. Ravish Agrawal, Sr. Advocate with Mr. B.P. Gupta & Mr. Anshuman Singh, R.S. Patel, Advocate.
For Respondent 5 & 7	:	Mr. Dinesh R.K. Tiwari, Advocate
For Respondent 6 & 8	:	Mr. Vaibhav A. Goverdhan, Adv.
For Respondentt No. 10	:	Mr. Amirto Das, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

C A V Order

04.05.2016

1. The challenge in this petition is to declare the election of respondent No. 1/the returned candidate as void and further declaration is prayed for that the petitioner be declared as duly elected candidate from No. 72 Kawardha Legislative Assembly. The petiton is under Section 123(6) of Representation of People Act. 1951 (hereinafter referred to as "the Act of 1951") on the ground that the returned candidate has incurred and authorized the expenditure in contravention of Section 77 of the Act, 1951.

2. Brief facts of the case are that the petitoner was the contesting candidate on behalf of Indian National Congress Party to the General Assembly Elections held in the year 2013 from Constituency No. 72 Kawardha, District Kabirdham, Respondent No. 1 was the candidate of Bhartiya Janta Party and was declared as returned candidate. Respondent No. 1 returned candidate secrued votes of 93645 and the petitioner secrued votes of 91087. The elections were held in two phases. First Phase of polling was held on 11.11.2013 for Rajnandgaon and Bastar districts and for the second Phase polling a notification was issued under the Election Rules on 25.10.2013 and the present election was held for Kawardha Legislative Assembly. District Kabirdham which was under second phase. As per the election programme, the following dates were fixed for conducting election.

(i)	Date of notification of election	25.10.2013
(ii)	Last Date of filing nomination	01.11.2013
(iii)	Date of scrutiny of nominations	02.11.2013
(iv)	Last date of withdrawal of nominations	04.11.2013
(v)	Date of Polling	19.11.2013
(vi)	Date of result declaration	08.12.2013

3. After the polling held, the results were declared on 08.12.2013 and Respondent No. 1 was declared as returned candidate. This fact is not in dispute that the election commission by its notification dated 23rd February 2011, fixed the outer limit of expenditure to be Rs. 16 lakhs for the State Assembly Election. Thereby the maximum expenses limit for the relevant Kawardha constituency was fixed at Rs. 16 lakhs.

4. Shri B.P. Sharma, learned counsel for the petitioner would submit that fixation of outer limit of expenditure was to provide candidates a 'level of playing field' to each candidate as against other and thereby the purpose was that platform should have been the same for each candidate who was contesting. He referred to section 123(6) of the Representation of People Act, 1951 and would submit that when the expenditure has been incurred over the prescribed limit or has been authorized to be made in contravention of Section 77 of the Act, then in such a case it would amount to corrupt practice. He further submits that respondent No. 1 has incurred expenses much over and above the prescribed/outer limit. He further referred to section 78 of the Act of 1951 and would submit that sub-section (1) of section 78 provides for 30 days for a candidate to file the account for the expenses incurred according to the prescribed limit which is defined u/s 2(g) of the Act of 1951. Referring to Rules 86, 90 & 90(b) of Conduct of Election Rules 1961. It is contended that respondent No. 1 has incurred expenditure much more than the limit prescribed and therefore there has been contravention of the limit of expenses as the same is above the prescribed limit. It is, therefore, submitted that it would contravene Section 77 of the Act 1951 and would fall wihtin the definition of Corrupt Practice.

5. Referring to deirection issued by the Election Commission, the counsel referred to the book captioned as "(निवार्चन व्यय-अनुवीक्षण पर अनुदेशों का संकलन जुलाई-2013)" by the Election Commossion of India. The counsel further referred to instruction 3.1.7 which relates to Media Pramanan and Anuvikshan Samiti i.e., Media Certification & Monitoring Committee (MCMC) and submitted that the Election Commission has given the direction about the nature of expenses and for preparation of video by the Election Commission and further referred to instruction 4.2 which lays down the role of Election Expenditure Observe. He further referred to instructions 4.2.10 about the DEMC (District Expenditure Monitoring Committee) and stated that as per the Annexure 74 the guidelines has been issued that in case certain expenses are not shown in day to day expenses and if the candidate is served with a notice by observer to explain the expenses and no reply thereof is filed whthin 48 hours by such Candidate then in such case the expenses as has been estimated and arrived at by the Expenditure Observer of Commission shall be added to the expenses of the candidate.

6. He further referred to instructions 4.4.1 of the Hand Book of the direction issued by and contended that accordingly the video surveillance team was constituted by the Election Commission so as to videograph the expenses related avents and submitted that videography was made and CDs were prepared and the expenditure observer shall take into expenses incurred on the basis of video evidence and record the same in the shadow register of expenses. He further submits that the CD which has been placed on record is admissible in this case irrespective of the provisions of Section 65-B of the Evidence Act and contended that the certified copy of the video having been given by the Election Commission to this petitioner, the same is admissible. He also referred to Annexure and stated that if the expenses are not shown within 30 days, it would be added to the expenditure of the candidate.

7. Counsel for the petitioner referred to the case law reported in **AIR 1996 SC 3081-Common Cause A Registered Society Vs. Union of India** and stated that the directions by the Election Commission are issued in view of the law laid down in the case which has empowered the Election Commission to issue the direction. It is contended that as such the directions which have been issued by the Election Commission has a statutory force. He further referred to instruction 5.5.1 of the instructions and stated that for public meetings and the railles permission has to be obtained from Commission and the expenditure are to be submitted in account including the expenses of the star campaigners. It is contended that all the expenses are to be accounted for i.e. expenditure for helicopter and sharing of stage. If any, by the star campaigner along-with other campaigners. He further stated that according to Instruction of 6.1 procedure has been prescribed to maintain account wherein it mandates that a seprate account has to be opened in the name of candidate and all the expenses are to be made from such account and expenses are also to be maintained in the daily register and the entries in register and expenses could not have been amended without the concurrence of District Expenditure Monitoring Committee.

8. The petitioner further referred to Section 93 of the Act, 1951 and would submit that as per the provisions of CPC under Order 13 Rule 4, once the document has been exhibited it would be admissible and in the instant case, the only mode of proof has been objected. It is contended that the documents itself by the provisions of the Evidence Act would be admissible as Section 3 of Indian Evidence Act defines the document, which includes the electronic record. The counsel referred to Sections 63 & 65-B of the Evidence Act 1872 and

submits that in this petition CDs having been certified, they would be a document and they would come within the ambit of public document and the certified copy of public documents would be admissible in view of section 76 of the Evidence Act.

9. It is further submitted that the provisions of Section 65-B of the Evidence Act would not be applicable in this case as the CDs which are exhibited are not prepared by use of computer. Therefore, the CDs would be the documents and being public document and certified copies are admissible in view of the law laid down in **Jaswant Sing Vs. Gurudeo Singh & others AIR SCW 2011 page 6567 and Shamsher Singh Verma v. Stae of Haryana 2015 AIR SCW 6434.**

10. Counsel for the petitioner would further submit that Ex. D-3 is proved by the respondent which proves the case that the expenditure has been incurred over and above the prescribed limit. While going through the document Ex. D-3, it is stated that this account has been submitted by the returned candidate wherein at column No. 2 the respondent has shown the expenditure of Rs. 8,52,854/- and further at Para 10(ka), it is stated that the amount of Rs. 11,72,702/- was admitted by the respondent and further stated that in Column (Kha), the observer has at one point has written rupees, but then the respondent has shown much more expenditure, therefore, it would amount to admission as the expenditure, disclosed by the respondent himself cannot be ignored, Therefore, the expenditure which was shown by the respondent bas to be accepted as a whole and after making addition, the amount exceeds Rs. 16 lakhs i.e., Rs. 11,72,702/- plus Rs. 4,31,922) which comes to Rs. 16,04,624/-.

11. It is further contended by the petitioner that the petitioner has obtained certified copy of photocopy of Register of Account Book vide application for certified copy which was numbered as 1954/2013 and in such copy an amount was shown of Rs. 14,01,802/- and the document initially which was filed with the written statement shown different amounts. Therefore, when the certified copy of the register was obtained by the petitioner, initially in the year 2013, certain entries wrere not there and there has been a manipulation in the register as by that time according to document Ex. P-59, no meeting was held uptill 28.05.2014. He further referred to Ex. P-69 and stated that the star campaigner campaigned in the election and election expeness of star compaligner Narendra Modi was shared by the applicants and another candidate neamely Motillal Chandravanshi of Pandarniya. It is submitted that Motilal Chandrawanshi has shown an expenditure of Rs. 2,97,250/- and therefore by making addition of the amount of Rs. 2,97,250/- would fall to the share of respondent the expenses would further go upto 19,01,874/-.

12. it is contended that respondent returned candidate has shown expenses of flag Rs. 4,91,400/- which has been borne by the party as per Ex. P-38 and Serial number of the same is same that of voucher, However, Rs, 4,91,400/- has not been shown by the Bjp as party expenses. As per Ex. P-67 wherein the party expenses for flag is shown only to Rs. 45,144/- therefore, it is stated that this amount is also required to be added as expenditure which was borne by the returned candidate.

13. It is further stated that as per the document Ex. P-6 the party expenditure shown by the returned cadndiate is Rs. 1,22,313/- and not Rs. 4,91,400/- and as such the said amount of Rs. 4,91,400/- is required to be added in the expenditure it is furhter submitted that the rate of flag has been proved by Ex P-70 and reading the documents altogether shows that actually the entire expenses were borne by the returned candidate Mr. Ashok Sahu.

14. Referring to another expenditure of Rs. 54,000/- as per Ex.P-37 it is stated that the Expenditure Observation Team presumed the expenditure of Rs. 54,000/- but in the shadow register, voucher 37, It was shown to be blank. Therefore, it is contended that Rs. 54,000/- is also to be added. Referring to admissibility of document it is stated that the documents were filed with the permission of the Court as per Order 7 Rule 14(3) and the documents having been filed, they were observed to be admitted subject to pleadings if made. He referred to the order dated 17.04.2015 and would submite that the Court itself has found that the pleading has already been made in respert of documents, Therefore, that issue of pleading could not have been gone into. He relied on decision of the Supreme Court in *Kapil Kumar Sharma Vs. Lalit Kumar Sharma and another-(2013) 14 SCC 612* and submittted that the documents so placed would be admissible in evidence.

15. Further referring to statements of petitioner itself he submittted that the Kawardha election undoubtedly took place in the 2nd phase and the notification was made on 25.10.2013, it is stated that as per the Statement of Naresh Gupta (D. W. 2), the list of star compaigner was deposited by the party on 01.11.2013 but it was not deposited as per the repost of Election Commission vide Ex. P-50. It is further contended that Ex.D-9 was only given to Election Commission on 31.10.2013 at about 7.30 but it was not supplied to Chief Electoral

Officer. Therefore, from 25.10.2013 within 7 days, the list of star campaigners was not submitted by respondent No. 1.

16. It is further contendent by referring to Ex. P-33, 34 40, 46, 47 that different expenditure has to be added to the account of returned cadndiate. It was further stated by referreing to Exhibits P-13, P-14, P-20, P-48, P-49, P-53 & P-67 that the expenditure incurred including the expenditure of Helicopter of Rs. 17,50,000/- as per Ex. P-53 exceeded the prescribed limit. It is contended that therefore the expenditure was incurred beyond the prescribed limit.

17. Advancing the submission on issue No. 3 wherein the petitioner has claimed to be declared as retrurned candidate the counsel would submit that incurring the expenditure over and above the prescribed limit would amount ot purchasing the voters and the presumption has to be drawn that the petitioner was not allowed to a 'Level Playing Field' with respondent No.1. Consequently the petitoner would be entitled to be delcared as returned candidate as per Section 98(c) of the Act of 1951 as the harmonious construction is to be made in accordance with section 123 of the Act. He further submits that reading of Annexure P-4 shows the number of voted secured by the respective candidates. One of the columns of the said documents shows that the voters have neihter Voted for the petitioner nor have voted for the respondent which is shown as NOTA i.e, None of the above it is further submitted that the legitimate canvssing means the expenses within the permissible limits and the same having not been made by the returned candidate it would amount to corrupt practice within the meaning of section 77 of the Act 1951. It is submitted that since Ashok Sahu has made the default of over expenditure therefore by re-election the public exchequer cannot be placed under pressure and therefore like that at Cricket matches "Duckworth Lewis formula" requires to be adopted by retably distributing the NOTA votes and petitioner should be declared as returned candidate by declaring the election of returned candidate to be void.

18. Per contra, learned Senior Counsel Shri Ravish Agrawal, assisted by Mr. B.P. Gupta, Mr. R. S. Patel Mr. Anshuman Singh & Mr. Vaibhav Govardhan, Advocates opened the arguments by referring to section 100 (1)(b) of and 1 (d)(iv) of the Act of 1951. It is submitted that in order to challenge the election u/s 123(c) of the Act 1951 the petitioner is required to plead and prove that the result of election so far as it relates to a returned candidate has been materially affected, Elaborating scope of Section 77 read with section 123(6) of the Act, 1951 learned counsel would submit that the scope of Section 77 are two fold and stated that failure to maintain account as per sub-sections (1) & (2) of Section 77 do not take within its fold the corrupt practice if the accounts are not maintained. Therefore, the corrupt practice can only be under sub-section (3) of Section 77. Referring to law laid down in (1999) 1 SCC 666 L.R. *Shiveramagowda & others Vs. T. N. Chandrashekhr (deed) by L.Rs. & ohters,* it was contended that the pleading with respect to fact that fact that "result of election has materially affected" has to be made.

19. Now further referring to a case law reported in *(1995) 5 SCC 347-Gajanan Krishnaji Bapat & another vs. Dattaji Raghobaji Meghe and others,* it is submitted that the allegation of coruupt practice must be pleaded alongwith source of information, date and place and the returned candidate cannot be taken by surprise during trial and evidence. Further relying on a case law reported in *(1999) 9 SCC 386-Jeet Mohinder Singh Vs. Harminder Singh Sassi* he submits that the allegations relating to commission of corrupt practice should be sufficiently clear and precise along-with source of information and furhter stated that mere non-disclosure of expenses would not amount to corrupt practice. It is furhter stated that all the facts which are essential to prove the corrupt Practice with Complete cause of faction must be pleaded and failure to plead even a single material fact would amount to non-disclosure. Further placing reliance in *(2010) 1 SCC 466-Kattinokkula Murall Krishna Vs. Veeramalla Koteshwara Rao and (2000) 8 SCC 191-Ravinder Singh Vs. Janmeja Singh* it is contended that the standard of proof is entirely different and would submit that if the evidence is led, but no categorical pleadings are made then in such case, the evidence cannot be looked into.

20. It is submitted by counsel for respondent No. 1 that the entire averments in this petition have been made on the basis of CD. It is contended that the CDs being not accompanied by certificate u/s 65-B of the Evidence Act, the same would be inadmissible. Therefore the source of information on the basis of CD as has been pleaded cannot be looked into. It is further submited that the petitoner has contended that the knowledge of various programmes was passed on from CD and the photographs were also taken from the CD and since the CD is inadmissible in evidence therefore, the entire case would fall. Referring to document Ex.D-3 and the account, learned counsel for respondent No. 1 submits that the petitioner has wrognly projected the documents that the respondent has admitted certain expenses, therefore it should be included in the expenditure account. Counsel went through various entries and would submit that the expenses like banners and

hoardings has been made at one time and once the expenses of banners and hoardings are prepared, it cannot be reckoned for the day one and for continuous period and referring to the account, counsel further submits that the expenses has been shown in the account which was accepted by the expenditure observer. It is submitted that the expenditure observer having found entires correct accepted the account so on the sole submission of the petitoner that the expenses having not been correctly added which have been shown by the respondent and the expenditure observer is without any support. It is further stated that the petitioner has evolved a new idea to get himself elected and after losing such idea, the prayer for cancellation of election of respondent returned candidate and to declare him as elected member will defeat the entire democratic system and the idea projected on presumption cannot be acted upon.

21. This Court on the basis of pleadings of the parties on 17.04.2015 has framed the following issues for consideration.

S.No.	Issues	Findings
(i)	Whether the returned candidate has incurred unauthorized expenditure in contravention of Section 77 of the Representation of people Act. 1951 and exceeded the expenditure over and above Rs. 16.00 lacs, which was published in the Gazette of India on 23.02.2011, therefore, the election is void ?	The petitioner has falled to prove
(ii)	Whether in absence of proper pleading regarding source of information of corrupt practice as per Sec. 83(1)(b) of the Representation of People Act, 1951, the petition is liable to be dismissed ?	Material particulars of pleadings as against evidence led on the head of expenses are completely absent.
(iii)	Whether the petitoner is entitled to second relief for furher declaration to be a returned candidate or such relief is not available in absence of proper and essential pleadings to this effect ?	Petitioner is not entitled to be declared as returned candidate.
(iv)	Any other relief which the Court deems fit.	Not entitled to any relilef.

22. The petitioner himself has examined as P.W. 1 and P. Dayanand was examined as P.W.2 U.S. Agrawal was examined as P.W. 3. Amit Kumar Awasthi was examined as P.W. 4. Ramesh Patel was examined as P.W.5 D.D. Singh was examined as P.W. 6 and Ashok Agrawal was examined as P.W. 7 whereas on behalf of respondent No. 1 Ashok Sahu, the returned candidate, himself examined as D.W. 1 Naresh Chander Gupta was examined as D.W. 2 and S.K. Singh was examined as D.W. 3.

23. Evaluating the pleadings, documents and the evidence go to show that the challenge in this election petition is predominantly on the ground that the returned candidate has incurred expenditure beyond the maximum prescribed limit thereby was involved in the corrupt practice. Reading of the R.P. Act, 1951 with reference to corrupt practice, section 123(6) speaks of incurring of authorizing of expenditure in contravention of section 77. Section 123(6) is reproduced hereinbelow:

Sec.123 of the R.P. Act of 1951

123 Corrupt practices.—the following shell be deemed to be corrupt practices for the purposes of this Act:

(1) xxx
(2) xxx
(3) xxx
(4) xxx
(5) xxx
(6) The incurring or authorizing of expenditure in contravention of section 77.

24. Since this section makes a reference to section 77 of the Act of 1951, necessarily section 123(6) has to be read along with section 77 which reads as under;

Sec. 77 of the R.P. Act 1951

"77. Account of election expenses and maximum thereof,—

(1) Every candidate at an election shall, either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorized by him or by his election agent between the date of on which he has been nominated and the date of declaration of the result thereof, both dates inclusive.

Explaination 1,—For removal of doubts, it is hereby declared that—

(a) The expenditure incurred by leaders of a political party on account of travel by air or by any other means of transport for propagating programme of the political party shall not be deemed to be the expenditure in connection with the election incurred or authorized by a candidate of that political party or his election agent for the purposes of this sub-section;

(b) Any expenditure incurred in respect of any arrangements made, facilitites provied or any other act or thing done by any person in the service of the Government and belonging to any of the classes mentioned in clause (7) of Section 123 in the discharge or purported discharge of his official duty as mentioned in the proviso to that clause shall not be deemed to be expenditure in connection with the election incurred or authorized by a candidate or by his election agent for the purposes of this sub-section.

Explaination 2.—for the purpose of clause (a) of *Explanation 1*, the expression "leaders of a political party", in respect of any election means,—

(i) Where such political party is a recognized political party, such persons not exceeding forty in number, and

(ii) Where such political party is other than a recognized political party, such persons not xceeding twenty in number,

Whose names have been communicated to the Election Commissiion and the Chief Electoral Officers of the States by the political party to be leaders for the purposes of such election, within a period of seven days from the date of the notification for such election published in the Gazette of India or Official Gazette of the State, as the case may be, under this Act;

Provided that a political party may, in the case where any of the persons referred to in clause (i) or, as the case may be, in clause (ii) dies or ceases to be a member of such political party, by furhter communication to the Election Commission and the Chief Electoral Officers of the States, substitute new name, during the period ending immediately before forty-eight hours ending with the hour fixed for the conclusion of the last poll for such election, for the name of such person died or ceased to be a member, for the purposes of designating the new leader in his place.

(2) The account shall contain such particulars, as may be prescribed.

(3) The total of the said expenditure shall not exceed such amount as may be prescribed".

25. Section 100 (1)(b) lays down that the commission of corrupt practice as a ground for delcaring the election void. In this context. Section 100 (1)(b) (d) is relevent here and quoted below.

Section 100 of the R.P. Act of 1951

100. Grounds for declaring election to be vold.—

(1) Subject to the provisions of such sub-section (2) if the High Court is of the opinion—

(a) xxx xxx xxx

(b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or

(c) xxx xxx xxx

(d) that the reuslt or the election, in so far as it concerns a returned candidate, has been materially affected—

(i) xxx xxx

(ii) by any corrupt practice committed in the interests of the returned candidate by an agent other then his election agent or;

(iii) xxx xxx

(iv) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act.

The High Court shall declare the election of the returned candidate to be void".

26. Reading of the aforesaid provisions would indicate that section 77(1) of the Act 1951 makes it mandatory for every candidate at an election to the State Legislative Assembly or the House of People to keep a separete and correct account of all expenditure incurred or authorized by him or by his election agent, between the date on which he was nominated and the date of declaration of result of election both dates inclusive. The total of the said expenditure shallnot exceed such amount as may be prescribed u/s 77(3), u/ s 77(2), the account shall contain such particulars as may be prescribed. Rule 90 of the Conduct of Election Rules 1961 prescribes the limit of election expenditure for parliamentary and assembly constituencies in each of the States and union territories. The particulars which have to be shown in the account are prescribed in Rule 86 of those Rules, failure to maintain the account is an electoral offence u/s 177-I of the IPC. Reading of entire provisions of section 77 would lead to show that all expenditure incurred or authorised by the political parties friends and supporters of a candidate in connection with his election is to be considered as part of candidates expenditure except the expenditure on travelling of leaders of his political party. By the amendment Act 2003 the earlier explanations 1 & 3 to section 77 (1) of 1951 of the Act have been substituted by new explanations 1 & 2. Therefore, the analysis of section would demonstrate that if any political party or the candidate wishes to avail it of the expmption provided by the provisions u/s 77(1), the intimation of names of the leaders of political party should be communicated to the Chief Electoral Officer within a period of 7 days prescribed in the Act and failure may result in denial of benefit.

27. Further coming back to the point of pleading, reading of Section 83 would show that where an election petition alleges commission of corrupt practice by a candidate, the pleading must cantain (a) direct and detailed nature of corrupt practice as defined in 1951 Act (b) the details of every important particular giving the time, place, names of persons, use of words and expressions, etc. it must also clearly appear from the alligations that the corrupt Practice was indulged with either express or implied consent of the candidate or his election agent.

28. In the present case, the corrupt practice has been stated about the expenditure over and above prescribed limit. Since the entire allegation is on over expenditure made by respondent returned candidate, therefore it would be necessary to evaluate the mandatory requirements of material facts and material particulars wherther have been pleaded. The learned counsel for the petitoner with respect to the material facts and pleadings had referred to Order dated 30th July 2014 passed by this court and has stated that the Court in such order has found that all the material facts and particulars have been pleaded with respect to corrupt practice to go in for trial. Perusal of record would show that the said order was passed while adjudicating an application under Order 7 Rule 11 of CPC. At that time neither written statements were filed nor the avidence was adducted. Thereafter, lot of change has taken effect as the denial by way of written statement has come on

record. The petitioner has elaborately come out with material particulars of expenses in his evidence. Therefore, it would be necessary to consider and examine whether such material facts and material particulars head-wise minutely have been pleaded or not ?. It being an election petition, the material particulars of expenses incurred is the requirement of law. The survey of evidence of material particulars with respect to expenses would show that the statement over the expenses has been stretched upon with different particular expenses minutely. But when the pleadings are seen as against the evidence adduced, such materials particulars appears to be absent. The court cannot ignore the nature of petition which is only based on over-expenditure incurred. Therefore, it was bouden duty of the petitioner ot elaborate each and every expenses particularly by way of pleading so that the returned candidate could meet out the same in reply. Elaborating head or expenses minutely by the petitioner falls short of the pleading. The function of the complete particulars is to present as full picture of the cause of action. The same may be overlapping but when it comes to evaluate on the head of expenses, then certianly each and every expenses should have been pleaded.

29. Perusal of issues No. 1 & 2 would indicate that both the issues are interlinked with respect to pleading and evidence. Therefore, both the issues i.e. No. 1 & 2 are considered simultaneously.

30. Now reverting to the pleading of the petitioner, primarily much pleading has been made that the information gathered about the higher expenditure is based on video recording made at the time of election which is placed as CD i.e., Compact Disk. The petitioner has contended at Para 10(a)(b)(e)(f) & (g) of the petition that the source of information is gathered from CDs. The petitioner has marked the compact disks (CD) as Exhibits P-9, P-11, P-15, P-18, P-60, P-61, P-62, P-63, P-64, P-65 & P-66. The said marking has been made subject to objection raised about the admissibility of such CD in evidence. Since the source of information abount expenses is pleaded to be bassed on the CDs, it would be necessary to examine the law as to whether the said CDs though marked as exhibits are admissible in evidence or not ?

31. The Evidence Act has been amended by the I.T. Act to introduce the admissibility of the electronic records, The concept of electronic evidence has been incorporated to provide the Court with a frame work to incorporate and introduce these new innovations in scientific technology. Under Section 3 of the Evidence Act, the definition of term "evidence" has been amended to mean and include;

"(a) all statements which the court permits or requires to be made before it by a witness; in relation to matters of fact under inquiry, such statement are called oral evidence;

(b) all documents includeing electronic records produced for the inspection of the court; such documents are called documentary evidence." in accordance with the amended definition of 'evidence' documentary evidence has been amended to include electronic records. The term 'electronic evi-dence' has been given the same meaning as assigned in the IT Act, which means 'date, record or date generated, image or sound stored, received or sent in an electronic form or micro file or computer generated micro fiche.'

32. According to the new provisions introduced into the Evidence Act, Section 65-A provides that the contents of an electronic record may be proved in accordance with the provisions of S.65-B of the Evidence Act, which provides that notwithstanding anything contained in the Evidence Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer (computer output) shall be deemed to be a documnet, provided the conditions specified in S.65-B(2) are satisfied in relation to the information and computer in question. Such a document is admissible in any proceedings, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

33. Before a computer output is admissible in evidence, the following conditions must be fulfilled, as set out in Section 65-B (2);

"(a) the computer output containing the information was produced by the computer during the period over which the computer was used regularly to store or process information for the purpose of any activities regularly carried on over that period by the person having lawful control over the use of the computer.

(b) during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer in the ordinary course of the said activities;

(c) through the material part of the said period the computer was oprating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its contents; and

(d) the information contained in the electronic record reproduced or is derived from such information fed into the Computer in the ordinary course of the said activities".

34. The laws on section 65-B of the Evidence Act came up for interpretation before Their Lordships in case of ***(2014) 10 SCC 473-Anvar P.V. Vs. P.K. Basheer*** wherein Hon'ble the Supreme court held thus in paragraphs 14, 15 & 16.

"14. Any documentary evidence by way of an electronic record under the Evidence Act. in view of Section 59 and 65-A can be proved only in accordance with the procedure prescribed under Section 65-B. Section 65-B deal. with the admissibility of the electronic record. The purpose of these provisions is to sanctify secondary eviden in electronic form, generated by a computer. It may be noted that the section starts with a non-obstante clause. Thus, notwithstanding anything contained in the Evidence Act, any information contained in an electronic record which is printed on a paper, stored, recoreded or copied in optical or magnetic media produced by a computer shall be deemed to be a document only if the conditions mentioned under sub-section (2) are satisfied, without further proof or production of the original. The very admissibility of such a documents i.e. electronic record which is called as computer output, depends on the satisfaction of the four conditions under Section 65-B (2) of the Evidence Act.

(i) The electronic record containing the information should have been produced by the computer during the period over which the same was regularly used to store or process information for the purpose of any activity regularly carried on over that period by the person having lawful control over the use of that computer;

(ii) The information of the kind contained in electronic record or of the kind from which the information is derived was regularly fed into the computer in the ordinary course of the said activity;

(iii) During the material part of the said period, the computer was operating properly and that even if it was not operating properly for some time, the break or breaks had not aiffected either the record or the accuracy of its contents; and

(iv) the information contained in the record should be a reproduction or derivation from the in-

formation fed into the computer in the ordinary course of the said activity.

15. Under section 65-B(4) of the Evidence Act, if it is desired to give a statement in any proceedings pertaining to an electronic record, it is permissible provided the following conditions are satisfied;

(a) There must be certificate which identifies the electronic record containing the statement;

(b) The certificate must describe the manner in which the electronic record was produced;

(c) The certificate must furnish the particulars of the device involved in the production of that record;

(d) The certificate must deal with the applicable conditions mentioned under Section 65-B(2) of the Evidence Act; and

(e) The certificate must be signed by a person occupying a responsible official position in relation to the operation of the relevent device."

16. It is further clarified that the person need only to state in the certificate that the same is to the best of his knowledge and belief. Most importantly, such a certificate must accompany the electronic record like computer printout, compact disc (CD), video compact disc (VCD), pen drive, etc, printing to which a statement is sought to be given in avidence in evidence when the same is produced in evidence. All these safegurads are taken to ensure the source and authenticity, which

are the two hallmarks pertaining to electronic record sought to be used as evidence. Electronic records being more susceptible to tamprring, alteration. transposition, excision, etc., whthout such safeguards, the whole trial based on proof of electronic records can lead to travesty of justice."

35. Furhter it was held in the said case (Anwar PV. v. P.K. Basheer (Supra) that the Evidecne Act does not contemplate or permit the proof of an electronic record by oral evidence if the requirement u/s 65-B of the Evidence Act are not complied with. It has been further held that the proof of electronic record is a special provision introduced by I.T. Act amending various provisions under the Eviedence Act. The very caption of Section 65-A of the Evidence Act, read with Sections 59 & 65-B sufficient to hold that the special provisions on evidence relating to electronic record shall be governed by the procedure prescribed under Section 65-B of the Evidence Act, It is held that it is a complete code in itself and being a special law, the general law under Sections 63 & 65 has to yield.

36. Similar view has been adopted in an unreported decision rendered in case of ***Kamal Patel Vs. Ram Kishore in Election Petition No. 24/2014*** decided by the M.P. High Court following the case of Anwar P.V (Supra). Furhter similar view has again relterated by the M.P. High Court in Election Petition No. 34/2014 (unreported)-Abhay Singh Vs. Rakesh Singh. Therefore, if the aforesaid interpretation is applied to the present case, it would lead to indicate that even the CD kept with the Election Commission would not be covered as primary evidence and primary evidence can only be referred to the orginal recording in a magnetic form, if any, or memory card stored by the Election Commission. The argument advanced by the petitioner that in preparation of CD. as no computer was used, as such, Section 65-B of the Evidence Act would not be applicable is completely unfounded and without any logical back-ground.

37. Further reading of the petition would indicate that with respect to source of information of corrupt practice pleaded at Para 10(a)(b)(e)(f) & (g) of the petition such information is said to have been derived after watching the CD. In support of the contention of para 10(b), the petitioner had deposed that the expenses have been alleged about the public meeting of Su. Shri Uma Bharti at para 73 of the statement of the petitioner, It is stated that he has made such pleading on the basis of CD. However, it has been stated that the CD has been obtained from the observer and he had received the same from him. Therefore, certain contradictions appear to have been existing as at one para, the petitioner has stated that he has obtained the CD from Election Officer and again it is stated that it was obtained from expenditure observer of election commission. Further in cross examination, it is stated that the petitioner had obtained the CD on 07-05-2014, importantly, the date of filling of the election petition is 20-01-2014. So the CDs which were filed alongwith the election petition on 20-01-2014. and are marked as Ex. P-9, P-11, P-15 & P-18 though have been stated to be obtained on 07-05-2014 but how it was filed on 20-01-2014 along-with the eletcion petition, the fact and evidence are completely contradictory to each other. The necessary inforece can be made that the said CD may not be available. So serious contradiction about the existence of CD itself appears.

38. Now referring to the statements of P.W. 2 the District Election Officer and P.W. 3 the incharge of Video Recording Team, it goes to show that P.W. 2 the District Election Officer in examination-in-Chief when confronted with the CDS i.e. Ex. P.9, P-15, 18 and Ex. P-60 to P-66 he stated that he cannot affirm the fact whether the same CDs were given by the office or not which were shown to him. In examination-in-Chief a question was asked that whether he has bought all the CDs relating to speech of Shri Narendra Modi, Su.-Shri Uma Bharti, nomination railly, rally of Raman Singh Road Show; whether he has brought it all the CDs with it, in reply to it, he stated that be cannot confirm the fact whether the CDs which are placed on record are one and the same or not. He furhter clarified the fact that the CDs which were placed before the Court cannot be said to be the same CDs i.e. of the election. Similarly, the in-Charge of the video recording team i.e. P.W.3 U.S. Agrawal in examination-in-chief has stated that the CDs which were issued were with date, time, in respect of the programs for which it was made. It is also stated that it was written on the CD and when confronted stated that the he cannot say that the same CDs are filed along-with the petition. Admittedly, these CDs do not contain the certificate as required u/s 65-B of the Evidence Act.

39. So on the aforesaid analogy of case law and the statement of witnesses who had issued the said CD it goes to show that the very existence of such CDs which are placed on record and exhibited has come under the clouds. Admittedly, the CDs do not contain the certificate as required u/s 65-B(4). Therefore, the evidence relating to electronic record as observed hereinbefore being a special provision, the general law on secondary evidence u/s 63 read with section 65 of the Evidence Act shall yield to the same.

40. So with reference to the interpretation of provisions of Indian Evidence Act in the context of Electronic Evidence with reference to the present case, the original recording of the videos wherein all the rallies, road show etc., were recorded primarily would only be the evidence and in any case, the secondary evidence of such contents are required to be proved as per modes provided under the statute. The necessary certificate as required u/s 65-B is mandatory to make the CDs as admissible. As a result, the CDs which are placed and exhibited in the case cannot be admitted in evidence as they fall short of requirement u/s 65-B of the Indian Evidence Act. 1872. So the entire case of source of information of corrupt practice relating to over expenditure on the basis of CDs is inadmissible in evidence and the same cannot be acted upon at the instance of the petitioner.

41, Now while examining the pleading along-with evidence, the law and principles which occupy the field would be necessary to point out in a case law reported in ***(1999) 1 SCC 666 - L.R. Shivarama Gowda vs. T.M. Chandrashekhar (para 10).*** Their Lordships of the Supreme court have laid down the law that in order to declare an election to be void under section 100(1)(d)(iv), it is absolutely necessary for the election petitioner to plead that the result of the election so far as it relates to returned candidate has been materially affected by the alleged non-compilance with the provisions of the Act or of the rules. Now reverting to para 5 of the election petition, it would go to show that the specific pleading is absent about the fact that the election result has been materially affected for non-compliance of any rules or the provision. In the case in hand since the court is examining the allegation of election petition as against the will of the people, therefore, the necessary pleading to this effect has to be there in the election petition to hold that there is a violation of specific rules or direction issued by the Election Commission coupled with the fact that the result of the election of the returned candidate has been materially affected by the alleged non-compliance.

42. furhter at Para 18 of case (supra), the Supereme Court while analyzing application of section 77 further held that incurring or authorizing of expenditure in contravention of section 77 of the act is a corrupt practice and section 77 provides that every candidate at an election shall keep a separate and correct account of all expenditure in connection with the elction incurred or authorized by him or by his election agent and that the accounts shall contain such particulars as may be prescribed. Rule 86, of the Conduct of Election Rules, 1961 sets out the particulars to be contained in the account of election expenses. It has been furhter held that subsections (1) & (2) of section 77 deal only with the maintenance of account. Subsction (3) of section 77 provides that the total of the election expenses referred to in subsection (1) shall not exceed such amount as may be prescribed. Rule 90 of the Conduct of Election Rules.

43. It is not in dispute that the maximum limit for Chhattisgarh Assembly Constituency was of Rs. 16 lakhs. While referring to statute, it states that in order to declare an election to be void, the grounds are enumerated in section 100 of the Act. Sub-section (1)(b) of section 100 relates to any corrupt practice committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent. In order to bring a matter within the scope of sub-section (1)(b), the corrupt practice has to be one defined in section 123. What is referred to in sub-section (6) of section 123 as corrupt practice is only the incurring or authorizing of expenditure in contravention of section 77. Sub-section (6) of section 123 does not take into its fold, the failure to maintain true and correct accounts. The language of sub-section (6) is so clear that the corrupt practice defined therein can relate only to sub-section (3) of secting 77 i.e. the incurring or authorizing of expenditure in excess of the amount prescribed. Therefore, it cannot by only stretch of imagination be said that non-compliance with sections 77(1) and (2) would also fall within the scope of section 123(6). Consquently it cannot fall under section 100(1)(b). Therefore the necessary inference would be drawn that in absence of the pleading that the election result has been materially affected by the alleged non-compliance with the provisions or of the Rules falling back to section 77(1) and (2) of the Act of 1951, the corrupt practice cannot be branded unless it is found that the returned candidate has exceeded the maximum expenditure of Rs. 16 lakhs according to Rule 90 of the Conduct Rules of 1961 i.e., expenditure made over and above the specified limit of Rs. 16 lakhs.

44. Now if we refer to case law reported in **(1995) 5 SCC 347-Gajanan Krishnaji Bapat vs. Dattaji Raghobaji Meghe.** Their Lordships of the Supreme Court held that “in order to unseat a returned candidate, the corrupt practice must be specifically allegaed and strictly proved to have been committed by the returned candidate himself or by his election agent or by any other person with the consent of the returned candidate or by his election agent, Suspicion, however strong, cannot take the place of proof, whether the allegations are sought to be established by direct evidence or by circumstantial evidence. Since pleadings paly an important role in an election petition, the legislature has provided that the allegations of corrupt practice must be properly alleged and both the material facts and particulars provided in the petition itself so as to disclose a complete cause of action.”

45. A petition levelling a charge of corrupt practice is required, by law, to be supported by an affidavit and the election petitioner is also obliged to disclose his source of information in respect of the commission of the corrupt practice. Under section 123(6) of the Act, 1951 the incurring or authorizing of expenditure in contravention of section 77 of the Act amounts to commission of a corrupt practice. However every contravention of section 77 of the Act does not fall within the mischief of section 123(6) of the Act, In Gajanan Krishnaji Bapat (supra), the Supreme Court while referring to the decision rendered in case of ***Magraj Patodia vs. R. K Birla AIR 1971 SC1295*** has reiterated that to prove the corrupt practice of incurring or authorizing expenditure beyond the prescribed limit, it is not sufficient for the petitioner to merely prove that the expenditure beyound the prescribed limit had been incurred in connection with the election of returned candidate, but he must go further and prove that the excess expenditure, was authorized of incurred with the consent of the returned candidate of his election agent. The entire reading or petition shows that the pleading to this effect that over expenditure was with consent of the returned candidate is absent.

46. Further in case of ***Indira Gandhi vs. Raj Narain reported in 1975 supplementary SCC 1***, the Supreme Court further affirmed the view while taking the note of the amendment Act 58 of 1974 and opined that voluntary expenditure incurred by friends, relations or sympathizers of the candidate or the candidate's political party are not required to be included in the candidate's return of expenses, unless the expenses were incurred in the circumstances from which it could be positively inferred that the successful candidate had undertaken that he would reimburse the party or the person who incurred the expenses. it is not enough to prove that some advantage accrued to the returned candidate or even that the expenditure was incurred for the benefit of the returned candidate or that it was within the knowledge of the returned candidate and he did not prevent it, to clothe the returned candidate with the liabllity of committing the alleged corrupt practice. The pleading to this effect that the returned-candidate had undertaken that he would reimburse the party or person the expenditure is absent.

47. The Supereme Court in case to ***Jeet Mohinder Singh vs. Harminder Singh Jassi (1999) 9 SCC 386*** in para 40 held that "the success of a candidate who has won at an election should not be lightly interfered with. Any petition seeking such interference must strickly conform to the requirements of the law. The court further held that setting aside of an election involves serious consequences not only for the returned candidate and the constituency, but also for the public at large inasmuch as relection involves an enormous load on the public funds and administration.

48. It has been furhter held in *Jeet Mohinder Singh (supra),* that the charge of corrupt practice is quasi criminal in character. If substantiated it leads not only to the setting aside of the election of the successful candidat, but also of his being disqualified to contest an election for a certain period. It may entall extinction of a person's public life and political career. It is furhter hald that a trial of an election petition though within the realm of civil law is akin to trial on a criminal charge. Therefore, two consequences follow i.e., firstly, the allegations relating to commission of a corrupt practice should be sufficiently clear and stated prscisely so as to afford the person charged a full opportunity of meeting the same and secondly, the chages when put to issue should be proved by clear, cogent and credible evidence. To prove charge of corrupt practice a mere preponderance of probabilities would not be enough. There would be a presumption of innocence available to the person charged. The charge shall have to be proved to the hilt, the standard of proof being the same as in a criminal trial (See Quamarul Islam v. S. K. Kanta AIR 1994 SC 1733, F.A. Sapa v. Singora (1991) 3 SCC 375, Manohar Joshi v. Damodar Tatyaba (1991) 2 SCC 342 and Ram Singh v. Col. Ram Singh AIR 1986 SC3.

49. It has been further held in *Jeet Mohinder Singh (supra),* that section 83 of the Act requires every election petition to contain a concise statement of material facts on which the petitioner relies. If the election petition alleges commission of corrupt practice at the election, the election petition shall set forth full particulars of any corrupt practice including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice. Every election petition must be signed and verified by the appellant in the manner laid down for the verification of pleadings in CPC. An election petition alleging corrupt practice is required to be accompanied by an affidavit in Form 25 read with Rule 94-A of the Conduct of Election Rules, 1961. Form25 contemplates the verious particulars as to the corrupt practices mentioned in the election petition being verified by the appelance separately under two headings; (i) which of such statemnts including particulars are true to the appellant's own knowledge, and (ii) which of the statements including the particulars are true to information of the appellant. It has been held in *Gajanan Krishnaji Bapat case (supra)* that the election petitoner is also obliged to disclose his source of information in respect of the commission of the corrupt practice.

50. Further in case of *Kamalnath Vs. Sudesh Verma (2002) 2 SCC 410.* the Supereme court has further held that mere non-disclosure of expenditure will not be a corrupt practice but incurring of expenditure in excess of the prescribed limit would be a corrupt practice. It was further observed that on a combined reading of sections 77 & 123(6) of the Act, 1951 it is explicitly clear that the excess expenditure must be incurred by the candidate or by any person authorized by the candidate or his election agent. It was held that an expenditure incurred by a third person, who is not authorised by a candidate or who is not an election agent of the candidate, will not be a corrupt practice within the ambit of Section 123(6) of the Act. It would, therefore, be necessary to establish a corrupt practice, as contemplated under Section 123(6) of the Act to plead requisite facts showing authorisation or undertaking of reimbursement by the candidates or his election agent. The court has furhter held that "when maintainability of an election petition is considered from the standpoint as to whether material facts have been pleaded or not in a petition alleging corrupt practice on the ground that expenses incurred by the candiate are more than the prescribed limit, it would be necessary to aver the fact that the candidate has inclurred the expenditure or has authorised any other person to incur the expenditure or that his election agent has incurred the expanditure and futher, the candidate has undertaken the liability to reimburse. These would constitute the material facts of an election petition, which is filed, alleging coruupt practice within the ambit of Section 123(6) read with Section 77 of the Act and Rule 90 of the conduct of Election Rules". Therefore, it would be necessary to examine the residue of averments made in the election petition to find out whether such material facts had in fact been averred in the election petition.

51. further the Supereme Court in case of *Anil Vasudev Salgaonkar Vs. Naresh Kushali Shigaonkar (2009) 9 SCC 310* held at paras 51 & 57 as under.

"51. This Court in Samant N. Balkrishna v. George Fernandez (1969) 3 SCC 238 has expressed itself in no uncertain terms that the omission of a single material fact would lead to an incomplete cause of action and that an election petition without the material facts relating to a corrupt practice is not an election petition at all. In Udhav Singh Vs. Madhav Rao Scindia (1977) 1 SCC 511 the law has been enunciated that all the primary facts which must be proved by a party to establish a cause of action or his defence are material facts. In the context of a charge of corrupt practice it would mean that the basic facts which constitute the ingredients of the particular corrupt practice alleged by the petitioner must be specified in order to succeed on the charge. Whether in an election petition a particular fact is material or not and as such required to be pleaded is dependent on the nature of the charge levelled and the cirumstances of the case. All the facts which are essential to clothe the petition with complete cause of action must be pleaded and failure to plead even a single material fact would amount to disobedience of the mandate of section 83(1)(a). An election petition therefore can be and must be dismissed if it suffers from any such vice. The first ground of challenge must therefore fall.

57. It is settled legal position that all "material facts" must be pleaded by the party in support of the case set up by him within the period of limitation. Since the object and prupose is to enable the opposite party to know the case he has to meet with, in the absence of pleading, a party cannot be allowed to lead evidence. Failure to state even a single material fact will ential dismissal of the election pettiion. The election petition must contain a concise statement of "material facts" on which the petition relies."

52. Further in *(2010) 1 SCC 466-Kattinokkula Murali Krishna v. Veeramalla Koteswara Rao* the Supreme court has held that it is a settled principle of law that evidence beyond the pleadings can neither be permitted to be adduced nor can such evidence be taken into account. As such the standard of proof was amphasized in such case law. Similar view was adopted **in (2000) 8 SCC 191-Ravinder Singh Vs. Janmeja Singh** wherein it was also held that "it is an the established proposition that no evidence can be led on a plea not raised in the pleadings and that no amount of evidence can cure defect in the pleadings".

53. Further in case law reported in *(2014) 1 SCC 46-Regu Mahesh allas Regu Mheswar Rao Vs. Rajendra Pratap Bhanj Dev* the importance of setting out the sources of information in affidavits came up for consideration and it was held that the sources of information should be clearly disclosed. It was also held that real importace of setting out the sources of infomation at the time of presentation of the petition is to give the ohter side notice of the contemporaneous evidence on which the election petition is based and that will give an opportunity to the other side to test the genuiness and veracity of the sources of information.

54. Keeping in view the aforesaid law laid down by the Supreme Court, the pleadings and evidence of the present case are examined together with reference to the pleadings in different paras and available evidence.

55. At para 4 of the petition, it is pleaded that had the returned candidate would not have adopted the corrupt practice, the petitioner would have been elected. At para 5 of the petition, it is pleaded that the entire petion is solely based particularly on the ground u/s 123(6) of the R.P. Act and at para 6 it is sated that the maximum outer-limit of expenditure was prescribed as Rs. 16 Lakhs for the Assembly Constituency. The averments with respect to outer limit of expenditure are not in dispute as would be evident from Ex.P-5, which is a gazette of India wherein Chhattisgarh State is placed at Serial No. 26. For Assembly Election, the outer limit is fixed at Rs. 16 lakhs. The petitioner further at para 7 has stated that if the petitioner would be able to show the expenditure incurred was more than Rs. 16 lakhs, then necessarily the election has to be declared void.

56. Further at para 8 it is pleaded that respondent No. 1 the returned candidate has spent more than Rs. 16 lakhs. In this para, the expenditure which was incurred more than Rs. 16 lakhs has not been stated. The document for this purpose has been exhibited as Ex. P-6 which is an expenditure register wherein (at interval page 114) it shows that the expenditure has been shown by Respondent No. 1 as Rs. 8,48,290/-. The petitioner in his statement has stated that according to him, the expenses of Rs. 46,58,276/- has been incurred and further has exhibited the document Ex.P-8 which is a Register of the expenditure observer wherein the figure of Rs. 14,01,802/- was shown. Now it we refer to Ex. D-2, the figure accepted by DEMC (District Expenditure Monitoring Committee) has been shown Rs. 11,72,702/-. Therefore, the finality of the figure of over expenditure has not been correctly pleaded and proved by the petitioner.

57. The petitioner further at para 9 of the petition stated that some of the expenses were not included by the returned candidate and further some of the expenses which were shown by the respondent have not been added by the expenditure observer. It is stated that the expenditure observer was obliged to include such expenses. Therefore, the pleading is made that had the expenditure observer whould have added such expenses, the figure would have been gone more than maximum presecribed limit. Reading of this para would show that it is silent as to what figure was excluded by the observer which were shown by the returned candidate apart from the expenditure arrived at by the Election Expenditure Observer. It would be the material particulars and omnibus allegation cannot be held to be sufficient and the entire over expenses have been pleaded. As the instant election petition is based solely on fact that expenditure was incurred over and above the prescribed limit, therefore, this part of pleading is held to be completely vague as the respondent could not be taken by surprise by picking up a figure during evidence that such expenditure has not been added by the observer. Had there been pleading, the respondent/returned candidate could have replied to it either by denial or admission but in absence of it, the head-wise non-disclosure of income cannot be considered. Further more, the reading of para 9 would certainly lead to point out that allegations and accusation(s) have been on the expenditure observer that certain expenditure has not been included. The said expenditure observer was not brought before the Court. Consequently apart from the pleading, the plaintiff was required to call the witness in evidence to prove this fact especially when the expenditure observer was an enlisted witness. Therefore, the necessary conclusion is that neither pleadings have been made as to what are the figures which were left out by the Election Expenditure Observer nor it has been proved by the petitioner by calling important witness. In the circumstances, the court may not sit to play the role of auditor over the accounts so accepted by the expenditure observer.

58. Further Para 10 of petition starts with repeated averments that the expenditure observer has not included certain expenditure by the respondent/returned candidate from 01-11-2013 to 08-12-2013 and it is sated that the plaintiff is in possession of various documents. Reading of the petition would show that pleadings are absent as to what were those documents, what was the source of information, what is the authenticity of such docements. Therefore, the best avidence i.e., the election observer who could have thrown light on these issues was withheld for the reasons best known to the petitioner to prove the contents of Para 10.

59. Pleadings and evidence on expenses of nomination rally took place on 01-11-2013 at para 10(a)-(a). Now reverting to para 10(a) of the petition it would reflect that the narrations have been made, in this para in two parts i.e. of nomination rally wherein it is stated that (i) the expenses towards construction of stage has not been added and (ii). Further it is stated that 4000-5000 persons were present in the meeting, most of them were wearing hats having party symbol of lotus and more than 50 vehicles were deployed, In order to prove the same, it is stated that the source of information of such allegations are gathered from the compact disk from which the photographs were taken. The quantification of expenses has been stated to be Rs. 1,11,500/-.

Reading of the entire para do not disclose of the averments that expenses were incurred by returned candidate or his agent. Such pleadings are absent. In order to prove the nomination rallies the petitioner has marked CDs as Ex.P-9 & P-60. Admittedly, the CDs so exhibited are not accompanied by any certificate as required u/s 65-B of the Evidence Act. Therefore as has been held in the foregoing paragraph that the CDs are not admissible in evidence, no reference can be made to such CDs. The photographs are marked as Ex P-10 and since it is stated that the photographs Ex.P-10 have been obtained from CD. the CD having been inadmissible in evidence, consequently Ex.P-10 photographs would also become inadmissible in evidence. In this context Ex.P-30 has been marked by the petitioner which is a communication that certain videography of the nomination was sent to the record room of election commission. The letter is purported to be signed by the Deputy Election Officer. The reference of this letter, however, is completely missing in the pleading. Similar document is Ex.P-31 which is a 'Q' sheet. The pleading to this effect is also completely missing in the petition. Now if we refer to the reply of the respondent for use of the Stage, it is stated that the stage is a permanent structure which was constructed by the Municipal Corporation for which an amount of Rs. 1100/- was paid to the Municipality for the use of stage. The returned candidate has denied the fact that the people were wearign hats and caps of Bjp symbols Since the evidence by petitioner about the preparation of stage and wearing of cap with Bjp symbol are not based on primary evidence as such it would be completely inadmissible to act upon.

60. Further at para 70 of the deposition of the petitioner, it is stated that the quantification of amount of Rs. 1,11,500/- has been stated on an estimation which is being arrived at after viewing the CD. The expenditure is attributed to the barricades and further pettioner has stated at Para 89 of the deposition that with respect to the averments of para 10(a), number of vehicles with flag and banner has been stated after viewing the CD. With respect to CD. P.W. 2 P. Dayanand the returning officer had stated that he cannot say the CDs which were provided by him i.e. Ex. P-9 and Ex. P-60 are one and the same. The same witness further at para 10 again stated that the CD which has been placed and exhibited before the Court cannot be said that the same CD has been placed which was issued. Similar statement has been made by P.W. 3 U.S. Agrawal. The witness P.W. 3 at Para-3, on being confronted with the CDs exhibited has stated that the CDs which were issued were containing the date, time, particulars of the programme and the place and it was written in the CD and the CD having been confronted, he stated that he cannot confirm that the same CD has been exhibited. On this issue DW-3 the Chief Municipal Officer with respect to the stage had stated that for use of Gandhi Maidan after obtaining permission from SDO, the premises is allowed to be used and Rs. 1100/- is being charged. It is further stated that Rs. 1100/- was charged from returned candidate Ashok Sahu for the use of Gandhi Maidan. With respect to the stage, it is stated that the permanent stage is constructed in Gandhi Maidan and no furhter erection of stage is required. The Documents Ex. D-7 & D-8 have been marked which show the position of the stage and Gandhi Maidan. Therefore, comparing the pleadings and evidence would lead to show that the petitioner has not been able to establish by pleading and proof the expenditure at nomination rally held on 01-11-2013. The oral evidence and the source of information has been made only on the basis of CDs which are admissible in evidence, therefore, such or a evidence would also become inadmissible in the result, it is held that the allegations of para 10(a) about over expenditure in the nomination rally have not been proved.

61. PLEADINGS AND EVIDENCE WITH RESPECT TO ALLEGED EXPENDITURE OF PUBLIC MEETING OF SU. SHRI UMA BHARTI HELD ON 09-11-2013 AT PARA 10(B)

(i) The petitioner has averred that 500 feet running barricades were made therefore taking the rate of barricades @ Rs. 50/- per feet and Rs. 50/- should have been taken instead of Rs. 1000/-. No quantification has been made with respect to barricades in the pleadings. Further the expenditure of Rs. 6000/- for construction of stage has been alleged to be not included thereby the total expenditure has been quantified to be Rs. 30,000/-. In such para, the source of information has not been stated. It is also not pleaded that the expenditure of Rs. 6000/- for the stage was borne by the returned candidate. The copy of the CD in this regard is marked as Annexure P-11 and the photographs of the said CD are marked as Ex. P-12. Further to prove Ex. P-62 the CD of the rally of Uma Bharti has been stated at Para 49 by the petitioner. The respondents as against this has stated that the barricades were not made and only bamboos were installed and Rs. 1000/- was paid for the tent used for the set up.Ex.P-11 the CD has been stated to be obtained by the petitioner from the District Election Officer. At para 71 of deposition the fact of 500 feet barricades has been stated on the basis of CD. In the statement of P.W. 1 at Para 73. It is stated that the expenses of Rs. 30,000/- have been written after watching the C.D. The witness P.W. 2 the returning officer on being confronted with Ex. P 11 & P-62 has denied the same and stated that he cannot say that the exhibited CDs are the same CDs which were issued. Similary statement has been made by P.W. 3 the video team incharge, therefore, the authenticity of the CDs. not be taken into consideration as the same have not been prove beyond doubt and are not accompained by necessary certificate.

62. Since the allegations of para 10(b) with respect to source of information is based on CD, therefore, after reading the facts, pleading and evidence, it is held that the petitioner has failed to prove the averments of para 10(b) with respect to over expenditure incurred at rally of Su. Shri Uma Bharti.

63. PLEADING 8 EVIDENCE WITH RESPECT TO KALA JATHHA FOR 10-11-2013 TO 17-11-2013 at para 10 (c) of the petitioner.

Now, coming to the pleadings and evidence with respect to performance of kala Jathha, it is pleaded at para 10(c) that during the course of election campaign, kala jathha had performed from 10th to 17th November, 2013. It is stated that Rs. 1 lakh 'might' have been incurred as the troop of kala jathha had come from out side of Kawardha. The pleading do not disclose the source of information. Further particulars of ex-penses of lodging, boarding etc., whether they stayed in a lodge or private house has not been stated. The relevant document is marked as EX. P.-13. The document Ex. P. 13 purports a permission granted for the purpose of Kala jathha. The returned candidate had stated that only 4 persons of Kala jthha were engaged. The returned candidate had admitted the fact that Kala jathha team had performed for 8 days. It is stated that 4 persons were engaged @ Rs. 2000/- per day and they were permitted to move around on the vehicle. The petitioner in his deposition at para 74 had stated that the "estimated" expenses of Rs. 1 lakh has not been disclosed by any one but it is stated on the basis of the permission granted it is further stated that since the performance was made from 10-11-2013 to 17-11-2013, as such, he has "estimated" the expenses of Rs. 1 lakh. The pleading shows the basis for which "estimation" has been stated is not pleaded and placed on record. Further at para 190 of the deposition the petitioner has stated that the expenses of Rs. 88,200/-, 66,150, 5000/-, 45,000/-, 40,50/-, 39,050/-, 22,050/- & Rs. 27,000/- have not been pleaded in the petition though had stated in the affidavit. Further the petitioner has volunteered that the expenses of Rs. 1 lakh has been pleaded on "estimation".

64. Further at para 245 of deposition, it is contended that pettioner himself has not seen the performance of kala jathha, however stated that programme had taken place for which the permission was obtained. In this context, if the affidavit attahced with the petition is referred, at para (a) of the affidavit, it is stated that the contents of para 1(a) to (o), of the election petition are true to the personal knowledge of the petitioner. Further again in the affidavit attached to the election petition at para 2 it is stated that the contents of para 1 to 16 of the election petition are true to the personal knowledge of the petitioner. Therefore, if the affidavit and the statements are read together it contradicts each other as at one part it is stated that he has not seen the performence of kala jathha personally but in the affidavit attaceed to the petition, it is stated that it is true to the personal knowledge which includes the performance of kala jathha, The petitioner further has stated that the entire expenses has been asserted on the basis of assumption, particularly, the amount of expenses has been stated in exmination-in-chief, but it does not find in the petition. If the petitioner wanted to assert that particular amount of expenditure has been incurred then in such a case, it is to be pleaded, Neither the particulas of such pleadings are present in the pettiion nor the proof of facts have been established that the petitioner has personally seen the performance of Kala jathha. Therefore, on admission of respondent No. 1 that Kala jathha has been performed, it cannot be presumed hypothetically that the expenses as asserted by the petitioner was incurred. So the expenditure estimated by the petitioner with respect to Kala jathha, is not proved beyond reasonable doubt. As a result, it is held that the averments made in para 10(c) has not been proved.

65. PLEADEING AND EVIDENCE WITH RESPECT TO CULTURAL PROGRAMME AT 8 VILLAGES ON 11.11.2013 & 12.11.2013. At para 10(d) it is pleaded that on 11.11.2013 & 12.11.2013 the cultural programme was conducted at the instance of returned candidate at 8 villages. In reply to this the respondent has denied the entire averments. It is further stated that cultural programme for the entire State of Chhattisgarh was organized by the State B.J.P., and not by the answering respondent and only loud speakers were provided by this respondent which has already been shown. The reading of petition would show that the source of income again has not been stated in his pleading. At para 78 of the deposition, the petitioner has stated that the expenses has been projected on the basis of permission which was granted. Ex.P-14 is the document of permission granted for such performance. The pleading is absent as to in which villages such programmes were organized. Further in deposition of P.W. 1 at Para 246, it is further admitted that the programmes which were conducted in 8 villages were not seen by the petitioner in person. Further it is also admitted that names of those persons who have seen the programmes have also not been stated in affidavit and only assessment of expenditure has been made on the basis of persmission granted. Therefore, when specific incidence o over expenditure is alleged in such case the petitioner was obliged to again prove the fact that the cultural programmes were actually organized in 8 villages and the expenses as shown, were incurred. Even if such permissions for the purpose of programme are admitted, in absence of any proof that actually any programme took place at the instance of Respondent No. 1 the returned candidate, again the presumption cannot replace the burden of actual proof.

66. In the result, the pleading and evidence made at Para 10(d) would lead to show that the pettioner has categorically failed to prove the fact that actually the programme had taken place with an expenditure as stated by the petitioner, So from the pleading and evidence, it cannot be held to be proved that Respondent No. 1 has incurred the expenses in such cultural programmes as alleged by the petitioner.

67. PLEADINGS AND EVIDENCE OF RALLY OF SHRI NARENDRA MODI AS PLEADED AT PARAS 10(e) & with respect to rally of star campaigners at para 10 (e) & (f) the expenditure has been pleaded about the rally conducted by Shri Narendra Modi. It is stated that number of vehicles were used with the flags and posters of Bjp and the persons who participated in the rally when asked by the observer, they had stated that they had come at the instance of the returned candidate. The said rally was stated to be organized on 14-11-2013. The pleading shows a list of 12 vehicles with flags and banners. It is further pleaded that amount of Rs. 20,300/- ought to have been shown or added by the returned candidate or by the observer in the statement of account. Further reading would show that it is alleged that the said meeting was addressed by Narendra Modi Chief Minister of Gujrat and Dr. Raman Singh, Chief Minister of Chhattisgarh wherein 15000-20000 people were present. The barricades have been stated to be used for 1000 feet and thereby Rs. 50,000/- towards expenses should have been added as per the rate fixed by the Election Commission, therefore, less amount has been added. In reply, to this para, the returned candidate has stated that it was a meeting of two constituencies i.e. Kawardha and Pandariya Kawardha is a constituency where the returned candidate and pettioner had contested in reply. It is further stated that the entire expenses for the banners had been shown in the account. Further in reply it is stated that the vehicles were passing through the road at the time were shown and only one vehicle was having banner and persmission and the rest of vehicles were of passersby or visitors. It is further stated in reply that the respondent has paid Rs. 43,530/- towards expenses of tent house and bamboos. Reading of para 10(e) & (f) would indicate that source of information has not been stated.

68. In order to establish the said rally, the pettioner has placed on record Ex.P-15 the CD, P-16 the photographs taken out from the said CD (P-15). The other CDs are marked as Ex.P-63, Ex.P-64 & Ex.P-65. Admittedly all the CDs do not contain any certificate as required u/s 65B of the Evidence Act. Therefore, as discussed herein before, are inadmissible in evidence. So the entire source of information as has been stated to be is based on CD and the pleading made in this regard cannot be accepted.

69. Now if the statement of the pettioner is referred, the averments have been made that on 14-11-2013 a public meeting was held by Shri Narendra Modi of Bhartiya Janta Party in favour of Ashok Sahu and the CD was stated to be Ex.P-15. It was stated that the said CD was obtained from the District Election Officer. With respect to Ex. P-63 which is stated to be CD of the public meeting held by Shri Narendra Modi in favour of Ashok Sahu at Sardar Patel Ground it is stated to be obtained from Collector's office. Ex. P-64 is stated to be a CD wherein Pramod Kumar the expenditure observer has been shown to have been making enquiry with respect to the same rally of Narendra Modi with respect to the vehicle used by the persons participated in such meeting Ex. P-65 has been stated to be the CD of the same rally organized by Narendra Modi wherein it is stated that it was obtained from Collector's office. Therefore, two statements are on record. The CD Ex. P-15 has been stated to have been received from the District Election Office whereas the other CD has been stated to have been received from the office of Collector. Further the deposition of petitioner at para 81 would show that the petitioner has stated about the number of vehicle which has been shown in the petition is deposed after watching the CD. At para 82 of deposition the petitioner further stated that the averments of para 10(e) of the petition with respect to expenditure of Rs. 20,000/- has been made after watching the CD. Para 83 & 84 of deposition further stated about the presence of 15000-20000 people, which is made on the basis of CD. it is also stated that facts are narrated both on the basis of CD as also on the personal information as he had happened to pass through the place, on the same day of rally. The petitioner, however, has denied the averments that he has personally seen the said rally of Narendra Modi on 14-11-2013.

70. Further at Para 247 the petitioner has stated that the averments of para 10(e) & 10(f) with respect to number of persons present at the rally organized on 14-11-2013, assertions have been made on the basis of CD. The petitioner had admitted the fact that in para 10(f) of the petition it was mentioned that about 15000-20000 people were present in the rally. On being specifically asked, in reply, the petitioner has stated that at para 15 of the affidavit, the presence of 10000-12000 people has been mentioned on the basis of CD since he had seen the CD at the time of filing the petition as also thereafter. The statement would show that the petitioner has maintained the stand that both the statements are correct about the number of people present i.e. 10000-12000 made in the affidavit and subsequently as has been stated of number of people of 15000-20000. The pleading and evidence would show that with respect to rally at one part the petitioner has contended that the entire use of expenditure like tent, barricades further runnig of vehicles and the presence of persons have beeen made on the basis of CD and furhter in cross-examination it is stated that he himself has seen the rally on the same day as he was a passerby. Therefore, the inconsistency in pleading and proof exists. Further if once the CDs are produced as source of information is revealed on the basis of CD then in such eventuality by virtue of section 59 of the Evidence Act, oral statement would be inadmissible in evidence.

71. With respect to oral evidence reading it with the pleading, the source of information has been stated to be from the CD and if the CDs are inadmissible then in such case entire base of allegations fall to the ground. It is noteworthy to add that when the allegation of corupt practice is made mainly on the ground of expenditure over the limit prescribed, the proof of evidence in election petition being the quasi criminal in nature, it has to be specifically pleaded and proved that the said expenses were made with the consent of the candidate and it would be necessary to over the facts that the candidate has incurred expenditure or has authorised any person to incur the expenditure or that his election agent has incurred the expenditure and further the candidate has undertaken the liability to reimburse. So in absence of clear proof, pleading and evidence it would be in the realm of conjecture requiring the court to draw inference by adopting an involved process of reasoning and that would not satisfy the requirement of the pleading of the material facts and proof thereof. Therefore, the averments of expenditure of rally conducted by Shri Narendra Modi has not been proved beyond reasonable doubt.

72. PLEADING AND EVIDENCE OF RALLY ORGANISED BY Dr. RAMAN SINGH ON 15-11-2013-With respect to road show held by Raman Singh, the Chief Minister of Chhattisgarh on 15-11-2013 at village Podi and Kawardha, it is pleaded at para 10(g) of the petition that the observer has added an amount of Rs. 3840/-, but at least a sum of Rs. 10,000/- should have been included. In reply, the respondent has stated that the amount of Rs. 1250/- has been shown for the expenditure incurred for the stage and loud speaker. It has been stated by the respondent that it was a road show ending on a particular place and therefore, the small gathering of road show was addressed by Dr. Raman Singh and there was no need to install a full stage. In this para or petitiion, the source of information has not been stated. It is also not specifically pleaded whether respondent No. 1 was present in the said road show or gathering. The information has been stated to be based on Ex.P-18 i.e. compact disk. Admittedly no certificate has been attached as required u/s 65-B of the Evidence Act, therefore, the source of information as has been stated to have been based on the CD cannot be accepted as the CD itself is inadmissible in evidence. At para 52 of the statement, the petitioner contendedthat the said CD Ex.P-66 was taken from the Collector's office and categorically-contended that the allegation of road show conducted by Raman Singh is based on the basis of CD.

73. With respect to averments made in para 10(g) of petition, the statements have been made at para 86 of deposition. The petitioner at Para 248 of deposition has admitted that he has not stated that the said road show was related to the election, if the pleading and evidence are read together, it would go to show that the pleading and evidence of facts are adduced on the basis of CD. Nowhere it is stated that the programme was organized by the returned candidate or the returned candidate was present at such road show. Therefore, the allegations so made at para 10(g), the petitioner has not been able to prove the fact to the satisfaction of the Court that the rally organized by Raman Singh was at the behest of the returned candidate so as to hold the expenses at the instance of respondent returned candidate. Therefore, in the facts and circumstances, the averments of para 10(g) with respect to corrupt practice cannot be held to be proved.

74. In the context of above, the petitioner has further contended that for the second phase of Kawardha polling, no list of candidates of star campainers was given within the stipulated time and date. It is contended that the notification was made on 25-10-2013 and therefore, as per instruction 38 of the Hand Book instructions and Section 77 of the R.P. Act, 1951 if the list has not been given within 7 days to the Election Commission and the Chief Electoral Office from the date of notification, the travelling expenses has to be included in the

expenses of returned candidate. The documents with respect to communications on relevant issues are marked as Ex. D-4, Ex. D-9, & Ex D-10. Now the question arises as to whether they satisfy the requirement of Explanation-2 to Section 77(1) of the R.P. Act, 1951? The section mandates that the list of the leaders of political party i.e. the star campaigners should have been given within a period of 7 days from the date of notification. Admittedly, the notification for election was made on 25-10-2013 for the second phase of election of Kawardha. The communication Ex. D-4 is the letter date 02-11-2013 awhich purported to be sent by the joint Chief Election Officer D.D. Singh to the District Election Officer and the Collector, Kawardha. The Letter is with enclosures. It includes the letter of Bjp of C.G., dated -01-11-2013 and enclosure of letter and list of Bjp Election Cell, Delhi dated 31-10-2013 along-with list of star campaigners. Perusal of the entire Ex. D-4 alongwith enclosure would reveal that it contains a letter sent by Bjp Chhattisgarh Pradesh on 01-11-2013 along-with the letter of office of Bjp Delhi dated 31-10-2013 which is an endorsement of the receipt of 31st October, 2013 by Election Commission, of India, by such letter, the BJP Election cell, Delhi had given the list of star campaigners to election Commission New Delhi Perusal of the list of safar campaigners would show that it includs the names of shri Narendra Modi Dr. Raman Singh and Su.Shri Uma Bharti at Serial No.-3 9 & 13.

75. The witness D.D. Singh who was examined as P.W. 6 has stated that he was working as joint Chief Election Officer at Chhattisgarh and was posted during the period of election of 2013. He has further stated at Para 8 that the list of star campaigners for the second phase was deposited by the Bjp party at Election Commission at Delhi on 31-10-2013 and with the Chhattisgarh Chief Election Office on 01-11-2013 which was further forwarded by him by letter dated 02-11-2013 to the Collector and District Election Officers. The document Ex.D-4 was confronted at the time of cross examination to the plaintiff witness. In the result, as it was confronted during cross examination, the same is admitted for the purpose of evidence. The document Ex.D-4 is also attached with the letter dated 01-11-2013 of Bjp was sent by Naresh Gupta who is examined as D.W. 2 Naresh Gupta has not denied his signature. The enclosure of Ex. D-4 letter is also marked as Ex. D-10. Therefore, Ex. D-10 & D-4 are one and the same. Ex. D-9 is the list of star campaigners submitted by the office of BJP Delhi dated 31-10-2013. The list of compaigners was deposited in fulfilment to section 77 of the explanation (2) of Representation of People Act, 1951 and the said letter is along-with the letter which also form part of Ex. D-4. The instructions issued by the Election Commission vide instruction No. 5.6.1 would show that it is a direction with respect to the expenditure on account of travel expenses of star campaigners. The instructions have been issued that the Chief Electoral Officer after receiving the information during the prescribed period regarding list of star campaigner from the recognized political party shall make it available to all the Returning Officers/District Election Officer/Expenditure observer and place it on their website. Therefore, the instruction as is given would show that compliance was made by the Chief Electoral Officer in terms of such instructions and in furtherance of explanation (2) of Section 77 of the R.P. Act.

76. Now it we refer to document Ex.P-50, it refers to demand made by the petitioner under RTI with respect to various documents. In such demand at Serial No. 17 the petitioner has asked for details of programme i.e. all the documents and the CD of the star campaigners and other campaigners namely Pawan Diwan, Madhusudan Yadav, Abhishek Singh son of Chief Minister, Veena Singh wife of Raman Singh Chief Minister etc. The said document is a handwritten document which is of 05-05-2014. The petitioner in his statement at para 112 stated that he do not remember that how many times, he had asked for the list of star campaigners and stated that for the second phase of star campaigner he made an application on 05-05-2014.

77. If the statement is further examined with respect to document, Ex.P-50 the demand, a colse scrutiny thereof would show that the petitioner had not requested for any list of star campaigner but instead had requested for document relating to programmes of star campaigners along-with CD. At para 50 of the statement of the petitioner, the petitioner had again stated that he applied for a list of star witnesses of second phase as per Ex.P-50 and again had asked for the list of star campaigner and had also asked for the copy of star campaigner on 30-12-2013. Therefore, two demands are stated to have been made by the petitioner for the list of star campaigners on 30-12-2013. & 05-05-2014. Admittedly, the document dated 30-12-2013 is not on record. The election petition was filed on 20th January 2014. So with respect to the availability of list of star campaigners, as per the instructions of Election Commission No. 5.6.1 the same was required to be placed on website and evidence available would indicate that it was complied. So in order to prove the fact with certainty the pettioner could have availed those documents from the website or could have placed the facts on record that even in the website the said list of political leaders were not available. A close reading of document of demand Ex.P-50 would show that it is dated 05-05-2014. The election petition was filed on 20-01-2014, therefore, it can be inferred in absence of any evidence that petitioner had not made nay effort to get the list of political leaders at the time of filing of petition and demand was made subsequently, therefore, as appears only on assumption and presumption the statements of non-submission of list of political leaders have been made. So considering the available facts jointly would indicate that in reply to RTI made by the

petitioner, reply to demand caluse 17 prescribing as 'Nirank' (zero) can not be interpreted that no list of political leaders i.e., star campaigners were communicated by the political party BJP.

78. It is not a case of petitioner that the documents Ex.D-4, D-9, D-10 which pertains to communications of names of star compaigners are stated to be forged. So as observed that list of star campaigners was furnished the second aspect would be what would be the starting point and last date of such submission to get the benefit to the explanation clause (2) of Section 77(1) of R. P. Act, 1951. Admittedly, the date of second phase of notification was notified on 25-10-2013. Therefore primafacie the 7the day appears to be on 01-11-2013.

79. In order to calculate whether the list was submitted within 7 days of notification, it would be necessary to make a reference of section 9 of the General Clauses Act 1897. For the sake of brevity Section 9 of the General Clauses Act is reproduced hereinbelow;

5.9 Commencement and termination of time,-

(1) In any [Central Act] or Regulation made after the commencement of this Act, it shall be sufficient for the purpose of excluding the first in a series of days or any other period of time to use the word "from" and, for the purpose of including the last in a series of days or any other period of time, to use the word "to"

(2) This section applies also to all [Ceneral Acts] made after the third day of January, 1868, and to all regulations made on or after the fouteenth day of January 1887." therefore by application of the aforesaid section, when the notification was made on 25-10-2013. Such date would be excluded and by addition of 7th day the last for submission of list of political leaders/star campaigners would be on 01-11-2013. The document Ex.D-4, Ex.D-9 and Ex.D-10 would show that the list of leaders by Bhartiya Janta Party was supplied on 31-10-2013 at Election Commission, New Delhi and similar list was deposited with Election Commission, Chhattisgarh on 01-11-2013 by Ex.D-10. Therefore, it can be safely presumed that the list of leaders was deposited by BJP within 7 days of notification of election.

80. Besides this, further when reference is made to section 114(e) of the Evidence Act it raises a presumption of correctness with respect to fact that the Court may presume that the judicial and official act have been regularly performed. The relevent part of section 114(e) of the Evidence Act is reproduced hereinbelow.

114. **Court may presume existence of certian facts.**-The court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.

(e) 'that judicial and official acts have regularly performed;

In this context, witness P.W. 2 P. Dayanand in his statement at para 2 has stated that he was a returning officer for the election of 2013. At para 21 he admitted that for the second phase, he has received the list of star campaigners in his office and the said list was received before the time period the witness P.W. 6 D.D. Singh who was the joint Election Officer of Chhattisgarh at para 1 has stated that he was a joint Election Officer and further at Para 8 has stated that the list of star campaigners was received at office election commission on 31-10-2013 and in the office Chhattisgarh Election Commission on 01-11-2013 and in was forwarded by him to the Collector and District Election Officer on 02-11-2013.

81. Therefore, considering this statement along-with document Ex.D-4 & Ex.D-10 it would raise a presumption that necessary formalities as required were complied with. In order to draw such analogy the principle as laid down in a case law reported in AIR 1934 Privy Council 217-Mohammad Akbar Khan Vs. Mlan Mushraf Shah may be referred which lays down that in absence of any avidence to the contrary, it ought to be presumed that all necessary formalities were complied with.

82. Witness Naresh Chandra Gupa (D.W.2) has stated that the list of star campaigners was submitted to the Chief Election Officer, Chhattisgarh, as such if the link of chain of correspondence is proved with reference to the Statement, the statement of Election Officer would be of much relevance who was in custody of the said document and has deposed in favour of submission of list. The instruction of Election commission at instructions 5.6.1 mandetes to forward copy of list of political leaders to Collector, District Election Officer, Expenditure Observer etc. So the ratio laid down in AIR 1957 SC 857 Mobarik Ali Ahmad Vs. The State of Bombay (at Page 864) would be applicable in the facts of the case. The Court held thus;

"It may also be proved by internal evidence afforded by the contents of the document. This last mode of proof by the contents may be of considerable valug where the disputed document purports to be a link in a chain of correspondence, some links in which are proved to the satisfaction of the Court. In such situation the person who is the recipient of the document, be it either a letter or a telegram, would be in a reasonably good position both with reference to his prior knowledge of the writing or the signature of the alleged sender limited through it, may be as also his knowledge of the subject matter of the chain of correspondence, to speak to its authorship."

83. Here the evaluation of evidence would show the genuine link of chain of correspondence and its authorship has been established thereby all proof of genuineness of the correspondence of Ex.D-4, Ex.D-9 and Ex.D-10 is established that the list of star campaigners was submitted by BJP in compliance with explanation 2 of section 77(1) of the R.P. Act, 1951 and it is proved that the list of political leaders/star campaigners were communicated to election commission and the Chief Electioral Officer within 7 days of the notification. As a result, the travelling expenses incurred over such star campaigner cannot be included in election expenditure of the candidate.

84. THE PLEADING 8 EVIDENCE WITH RESPECT TO THE ROAD SHOW BY Dr. RAMAN SINGH AT PARA 10 (g) OF THE PETITION—with respect to road show held by Dr. Raman Singh on 15-11-2013, it is mentioned at para 10(g). The petitioner has stated that the stage of 500 square feet was made but only Rs. 3840/- was added as expenditure. In this para also the source of information has not been stated and it has been stated that on the basis of Ex.P-18 the C.D. the averments have been made. The respondent returned candidate has denied the averments of para 10(g). It is stated that only the amount was paid for the stage and the loud speakers, The documents to prove the contents of pleading is CD Ex. P-18. P.W.1 has furhter stated that the photographs were taken from Ex.-18 CD and was maked as Ex.P-19, Another CD is marked as Ex.P-66 which has been stated to have been obtained from the Collector's office. Reading of para 10(g) would further indicate that the road show of 25-11-2013 is not alleged to have been related to the election which is further corroborated by the petitioner at para 248 of his deposition. Therefore, the analysis of the entire pleadings and evidence would show that the pleadings have been made on the basis of CD. Since the CD do not containe the certificate as requried u/s 65-B of the Evidence Act, the same is inadmissible. As the CDs Ex.P-18 & Ex.P-66 are inadmissible in evidence, consequently, the photographes Ex.P-19 taken out from the CD would also become inadmissible.

85. PLEADING & EVIDENCE OF MOTORCYCLE RALLY AT PARA 10(h)-At para 10(h) of petition the pleading is made that the rally of 100 motorcycles carrying with flags was organized propagating the cause of returned-candidate and the rally of motorcycles was to pass through 35 kilometers long way and the expenditure of Rs. 15,000/- has been projected. To establish such facts, the petitioner has proved Ex.P.-20 wherein it shows that a permission for the rally of motorcylces from village Khara to Samnapur was given for 17-11-2013 from 2.00 p.m., till the end of compaign. In response to it the returned candidate contended that the rally could not be organized end carried out as the time was very short since the permission was given from 2.00 p.m., onwards and the closing time for canvassing was uptill 5 p.m. on 17-11-2013. In statement of petitioner at para 94, it is stated that organisation of the motorcyles rally was informed to the petitioner by the workers. It was further admitted by the petitioner as to when and where such information was given by the supporters has not been disclosed. The petitioner has further stated that the information was given by Ashok Chopda and Ayub Khan of Raja Nawagaon but this fact has neither been stated in the election petition nor in the affidavit. Therefore, it is evident that only on the basis of hearsay evidence the petitioner has stated that the motorcycle rally was organized, but whether actually it took place has not been proved.

86. At para 10(i) it is stated that for the purpose of propagating the cause of returned candidate, 18 vehicles were used but 8 vehicles have been shown by the observer and further stated that though the permission for 18 vehicles were taken but in such garb, hundreds of vehicles were used including two wheelers and 4 wheelers. Therefore, an additional amount of Rs. 17,300/- should have been added. The entire reading of this para goes to show that it is silent about the source of information. It is also not stated that what was the basis to make such allegation and whether the expenditure was made by the returned candidate or not. In reply, it is stated that 18 vehicles were used and an amount of Rs. 3800/- (it should have been Rs. 30,800/-) as expenditure was incurred. The statement of petitioner would show that such averments were made at para 98 only on the basis of permission which was granted to respondent No. 1 vide Ex.P-21. At Para 100, it has been further stated that averments of hundreds of vehicles were plying was made on the basis of general talk in the area. The petitioner admitted the fact that he has not stated as to who has disclosed these facts and again has resorted to CD as source of information. Therefore, the pleadings and evidence would go to show that it is very vague in nature and no definite evidence is on record to show that actually how much number of Vhicles ware usjed on the day. Again the evidence of the petitioner is based on hearsay and therefore on the basis of permission actual expenditure of assessment cannot be done.

87. Further with respect to pleading at para 10(J) of expenses incurred on polling day, it is pleaded that at about 386 booths were functioning and on each booth agents were appointed and the returned candidate though has shown Rs. 38,600/- but it is less by Rs. 14,000/-. It is further stated that 7 vehicles would have been plied by the respondent and therefore anohter figure of Rs. 52600 should have been added. In reply to it, it is stated by the returned candidate that the polling agents were local residents and therefore, no vehicle was used and breakfast and lunch were provided @ Rs. 200/- per head. The pleadings if are examined, it would show that the figure has been assessed on the basis of presumption. The source of information has also not been stated. The petitioner in has evidence at para 101 admitted that the expenses of Rs. 14000/- has not been disclosed but stated that on the basis of guidelines, it is presumed. About the distribution of food packets the petitioner stated that in 2-3 booths he has seen that food packets were distributed whereas in respect of other books about the distribution of food packets, It is stated that the information was received from the workers. Therefore, no primary evidence is placed on record and evidence of distribution of food packets is confined only to 2-3 booths, rest of the information has been stated to be on the information of the workers is hearsay. Though the petition supported by the affidavit states that the averments of petition have been made on the basis of personal knowledge, but the evidence destroys the same. In the result, for the reason of conflict of statements and hearsay evidence, the petitioner has failed to prove the contents thereon.

88. At para 10(k) of the petition, the pleading is made about the programme of 18-12-2013 (wrongly typed as 08-12-2013) when the counting had taken place. It is stated that 15 agents were deployed by respondent No. 1 and only expenditure of Rs. 2030/- has been shown but Rs. 10,000/- should have been incurred. The pleadings are also vague as the source of information has not been pleaded. It is also not pleaded that the said expenditure was made by returned candidate or his agent. In reply it is contended that the counting agents were local residents and therefore no separate vehicles were used. It is further stated that the returned candidate has provided breakfast and lunch for which the expenses were counted for. Now reverting to evidence of the petitioner, at para 104 of the statement, the petitioner admitted the fact that it is not stated as to who had given such information of 15 agents. He has further stated that it was on his personal information. Therefore, no evidence is on record to accept the version of the petitioner. In the result, the pleading and evidence of para 10(k) also fails.

89. With respect of para 10(L) and (m) the averments have been made about the list of star campaigners that the communication was not supplied as per Section 77 of R.P. Act and therefore the expenses are to be added. As discussed earlier in the foregoing paragraphs it is held that the list of star campaigners was submitted within the specified time of 7 days from the date of notification, consequently the expenses incurred by the star campaigner was not included. The petitioner though had made averments that the expenses of helicopter of Rs. 70,000/- per hour for service charges is quantified to Rs. 7,86,520/- but the source of information is again silent along-with the fact that the pleading is absent to show that the expenditure was made by the returned candidate. Even otherwise since it is held that the list of names of political leaders was furnished in terms of explanation (2) of Section 77(1) of the R.P. Act 1957, as such, the-expenses incurred for travelling of star campaigners/leaders of political party would be exempted to be counted on the head of election expenditure.

90. The petitioner has exhibited the document as Ex.P-22 which is the list of the star campaigners. Ex.P-23 is document of permission of landing of Dr. Raman Singh for 15-11-2013 Similarly Ex.P-24 is exhibited which is also landing permission of Helicopter of Dr. Raman Singh of 14-11-2013. Ex.P-25 is the permission of landing of helicopter of Shri Narendra Modi, the Chief Minister of Gujrat alongwith Dr. Raman Singh. Likewise, Ex.P-26 is exhibited for landing permission of Su. Shri Uma Bharti on 09-11-2013. Ex. P. 28 is also the landing permission of helicopter of 02.11.2013. Exhibits P-23, 24, 25 & 26 purport that the said visit was made by Shri Raman Singh, Shri Narendra Modi and Su Shri Uma Bharti for election compaign for respondent No. 1 Ashok Sahu. Since their names were shown at satar campaigners as such the expenditure cannot be taken into account for the purpose expenditure made by R-1/returned candidate. Ex.P-28 purports that it was peronal visit of Dr. Raman Singh and therefore cannot be considered on the head of expenses. The document Ex.P-33 is the expenditure for the helicopter. Likewise P-46 is the receipt of expenditure for helipad. Ex.P-47 is also a receipt of expenditure for helipad. The document Ex.P-48 is a receipt issued by the Municipal Council Kawardha showing payment to the Municipal Council for water tanker. Ex.P-49 is also a receipt for landing of helicopter. Ex.P.-54 is the application to get permission for landing of helicopter of Shri Narendra Modi, C.M., of Gujrat and tour programme of Narendra Modi is

marked as Ex.P-55. The tour programme of the landing permision of helicopter of Raman Singh for 18the & 19th is marked as Ex.P-56. Ex.P-56 would show that it was for the purpose of Chief Minister to cast his vote at his native place i.e., Kawardha and tour programme of Chief Minister Raman Singh is marked as Ex.P-56. Ex.P-57 is tour programme of Uma Bharti. Again tour programme of Dr. Raman Singh is marked as Ex.P-58.

91. Perrusal of the aforesaid documents would show that though the documents have been exhibited, but no pleadings in this regard has been made. Further more, the names of persons i.e., Nerendra Modi, Dr. Raman Singh, for whom the permission was granted for landing of helicopter were included in the star campaigners list. Therefore, the travelling expensess incurred for the star campaigners i.e., political leaders could not be included as per section 77 explianations 1 & 2 of the R.P. Act of 1951. The names of star capaigners has been further corroborated by Ex.D-10 wherein the list of star compaigners was submitted at the election commission of india on 31.10.2013 and further the receipt of such list of star campaigners is proved by the Chief Electoral Officer of the State as per Ex.D-4. The overall evidence and pleadings would lead to prove that the contention as has been made by the petitioner that the list of star campaigners was not submitted cannot be accepted. Therefore, the documents which have been exhibited for the travel expenses incurred for the star campaigners become completely ineffective for the decision of the issue raised.

92. It is further pleaded at para 10(n) that other campaigners of Bjp had come to kawardha namely Madhusudan Yadav, Pawan Diwan and Abhishek Singh and lots of vehicles were used by them and the expenses have not been shown and therefore an amount of Rs. 12,000/- should have been added. The allegations itself are so vague that the petitioner himself has not stated that how many vehicles wee deployed and where they were plying and at whose instance the vehicles were used. It is also not stated that the returned candidate had made an expenditure. It is alleged that Madhusudan Yadav conducted the meeting. A perusal of the name of star compaigner which is filed as Annexure D-4 would show at Serial No. 31, the name of Madhusudan Yadav is shown. The evidence with repect to para 10(n) at Para 115 of deposition, the petitioner has admitted the fact that he had not pleaded that where and when Madhusudan Yadav had organized the meeting.

93. Similar statement is made at para 117 which speaks about Abhishek Singh and admitted the fact that he is local resident of Kawardha. It is further admitted fact that when and where Abhishek Singh and conducted the rally has not been disclosed. With respect to Raghu Raj Singh at para 118 of deposition it is stated that the petitioner has not mentioned that when and where Raghu Raj Singh has campaigned and organized the meeting. He admitted this fact that he was the chairman of Sugar factory which comes under the Kawardha. On a suggestion being made, the petitioner has stated that he has no knowledge that whether Raghuraj Singh being Chairman of Sugar unit whether often visits the sugar factory at Kawardha or not ?. With respect to use of vehicles, at para 119 of statement, it is stated that the number of vehicles have not been disclosed. The petitioner though has stated that large number of vehicles were used but it is not pleaded in the petition which vehicle was used by whom and when and where the vehicles were used. As against this the respondent has stated that he has disclosed the use of vehicle by Pawan Diwan and the expenses were stated in the account. Therefore, pleadings and evidence with respect to expenses incurred in various rallies has also not been proved as is expected in the election petition.

94. At para 10 of petition, certain derogatory remarks made by Madhusudan Yadav has been shown but consideration of this averment becomes irrelevant as nothing has been placed on record to substantially establish these allegations. Further at para 11, the petitioner has alleged that the total expenses incurred by the returned candidate was Rs. 25,96,380/-. It is further alleged that the returned candidate has shown the expenditure of Rs. 14,01,800/- (as per the shadow register) therefore, an amount of Rs. 12,33,380/- towards expenditure has not been included. In reply to this para, respondent has stated that he has shown its expenditure as Rs. 8,48,290/- which is evident from the last page of Ex.D-6 signed by the respondent and final figure accepted by the election commission is shown at the last page Ex.D-2 to be Rs. 11,72,702/-. The witness P.W. 2 the returning officer P. Dayanand has stated at para 18 that the returned candidate has raised objection with respect to the expenditure shown by the observer as the observer has shown the expenses of Rs. 14,01,802/-. The officer further admitted the fact that the objection made by the returned candidate was decided in the meeting of DEMC Committee and further admitted that after considering the objection of Ashok Sahu, Rs. 11,72,702/- was accepted to be the correct and final expenditure shown by the returned candidate.

95. The petitioner though has stated that no meeting of DEMC was held but in order to establish the fact has not called the expenditure observer in the witness box though his name was proposed as a witness. The petitioner has challenged the authenticity of expenditure of final figure made by the expenditure observer of Rs. 14,01,802/-. Therefore in order to challenge such credibility, the expenditure observer who settled the final figure should have been brought before this court by the petitioner to demolish the final account settled. Petitioner witness P.W. 2 during cross examination at para 29 of deposition had admitted that DEMC meeting was held and after the objection was raised by Ashok Sahu the expenses shown in the shadow register i.e. Rs. 14,01,802/- was corrected.

96. The returned candidate (D.W.1) has stated that after the objection was raised, the expenses were brought down to Rs. 11,72,702/-. Now if we refer to Document Ex D-2 the last page of Ex.D-2 shows an amount of Rs. 11,72,702/- is figured out.

97. The document Ex.D-3 is the report of District Election Officer wherein the expenses of account were reconciled as few of expenses which were shown initially by expenditure observer were not accounted for and likewise the expenses accounted for by returned candidate which were not shown by expenditure observer were considered like expenses on banners and posters, expenses shown on the date of result dated 08.12.2013 etc. So the perusal of Ex.D-5 and Ex,D-3 would show that consequential calculation was arrived at Ex.D-5 which the basis calculations were made at Ex. D-3 and finally Rs. 11,72,702/- was arrived at. So the contention of petitioner on the basis of account so furnished, it is not established that expenses over and above Rs. 16 Lakhs were incurred.

98. If further reference is made to the petition at para 11, the expenditure has been shown by the petitioner is Rs. 25,96,380/- in the affidavit at para 20, the petitioner has stated that the additional expenses of Rs. 30,06,474/- was incurred and with the addition of Rs. 14,01,802/-, the amount of expenditure inflates to be shown as Rs. 44,08,276/-, in further examination before the Court at Para 4, the petitioner has stated that expenditure of Rs. 46,58,276/- was made by the respondent. Therefore, an inconsistency has been shown in the figure of expenditure and the petitiner himself has not been able to place the facts conclusively about the correct figure. When the petition is primarily based on over-expenditure, certainly it would be necessary for the petitioner to substantiate the actual figure and minor discrepancies may be accepted but not in the nature pleaded and proved. It cannot be left open to the will of the petitioner that at different points of time, different
figures are allowed to be floated to catch the repondent by surprise.

99. So in the light of the discussion made herein above when the case is examined, it would lead to show that the plea raised on behalf of the petitioner while canvassing the commission of corrupt practice by respondent No. 1, the petitioner has failed to prove the same as it is a settled principle that in the matter of election jurisprudence, the success of a candidate who has won at an election should not be lightly interfered with and any petition seeking such interference must strictly conform to the requirements of law. The setting aside of election involves serious consequenses not only for the returned candidate and the constituency, but also for the public at large inasmuch as re-election involves an enormous load on the public funds and administration. The charge of corrupt practice is quasi criminal in character. Therefore, a trial of an election petition though within the realm of civil law is akin to rial on a criminal charge. The allegations relating to commission of a courrupt practice should be sufficiently clear and stated precisely so as to afford the person chaged with full opportunity of meeting the same. Secondly, the charges when put to issue should be proved by clear, cogent and credible evidence. To prove charge of corrupt practice a mere preponderance of probailities would not be enough and the charge will have to be proved to the hilt, the standard of proof being the same as in a criminal trial.

100. Further while going through the pleading and evidence, it would show that durnig the evidence minute particulars of expenses head-wise was stated but the same do not find place in pleading. As a consequence the returned candidate was not provided with any opportunity to answer the same in absence of pleading. The submission of the petitioner that the pleadings were sufficient as it was held by this Court in its order dated 30.07.2014 cannot to aid of petitioner for the reason that at that stage when such orders were passed the written statement by the respondent was not filed. Subsequently after filing of the written statement on the basis of denial, the issues were framed. Since in written statement the averments of petition were not admitted. It was for the petitioner to prove the case like nature of a criminal case and in absence of pleading, the evidence could not be looked into.

101. Further Perusal of affidavit and statement before the Court shows that lot of differences exists in the statement of the petitioner. In the affidavit filed along-with the petition shows that the averments have been stated to be based on personal knowledge of the petitioner but in the cross examination it was negated and narrated that the information was gathered from other sources. Therefore, the petitioner has failed to demarcate the line to prove that which of the statements including particulars are true to the petitioner's own knowledge and which of the statements including particulars are true to the information of petitioner.

102. Further, the averments and the evidence led is vague and they are in general statement without any evidentiary value thereof. Therefore, on scrutiny of the entire facts i.e. the pleading and evidence it would be in the realm of conjecture to uphold the contention of the petitioner that the expenditure were incurred over and above the limit as the witnesses of petitioner i.e., refurning officer itself had admitted the fact that Rs. 11,72,702/- was accepted as correct expenditure. Such evidene led on behalf of the petitioner cannot be sidelined and for all purposes, the witnesses of the petitioner has demolished the case of the petitioner.

103. In view of the discussion made herein above, the Court has no hesitation to come to conclusion that the pleading and evidence are lacking to uphold the contention of the petitioner and in the result the election petition is liable to be dismissed.

104. Now reverting to issue No. 3 and issue no. 4 as to whether the petitioner is entitled to be declared as a returned candidate, the submission of the petitioner that since the electors were purchased by incurring more expenses by the respondent/returned candidate, therefore, free will of franchise was affected and in order to arrest the further expenditure of public chequer, the petitioner should be elected by applying the Duckworth Lewis law in Cricket field is completely without any base or substance. Counsel for the petitioner has placed reliance in (2015) 3 SCC 467 Krishna Moorthy Vs. Sivakumar and others and stated that since the respondent candidate had resorted to illegitimate canvassing, the election needs to be set aside by declaring the petitioner to be returned candidate. The proposition so advanced on the basis of law cited do not support the petitioner in the given proved set of facts available. The submission of the petitioner that ratable distribution of the votes to be made of person who have voted as NOTA i.e. "None of the Above" is misconceived. If such logic is accepted, in such case it would destory the basic feature of the democracy.

105. In view of the above conclusion, this court is of the view that the petitioner has failed to prove that corrupt practice was committed by the returned candidate by incurring expenses more than the prescribed limit. As an upshot of discussions, the election petition is liable to be dismissed and is hereby dismissed. No order as to costs.

Sd/-
GOUTAM BHADURI
JUDGE.

By order,

Sd/-
(K. N. BHAR)
Secretary,
Election Commission of India.

भारत शासन के आदेश और अधिसूचनाएं

राजस्व एवं आपदा प्रबंधन विभाग
मंत्रालय, महानदी भवन, नया रायपुर

नया रायपुर, दिनांक 26 जून 2018

क्रमांक एफ 4-26/सात-1/2018.—कोयला धारक क्षेत्र अधिनियम, 1959 के अंतर्गत जिला सरगुजा एवं सूरजपुर में भू-अर्जन के संबंध में भारत सरकार, कोयला मंत्रालय नईदिल्ली द्वारा जारी संशोधित अधिसूचना दिनांक 27 दिसम्बर, 2017 को सर्वसाधारण की जानकारी हेतु छत्तीसगढ़ राजपत्र में प्रकाशित किया जाता है.

आर. के. चंचलानी,
अवर सचिव.

[भारत के राजपत्र, भाग-II, खण्ड 3, उप-खंड (ii) में प्रकाशनार्थ]

कोयला मंत्रालय

अधिसूचना

नई दिल्ली, 27 दिसम्बर, 2017

का.आ. 4076(अ).—केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 7 की उप-धारा (1) द्वारा शक्तियों का प्रयोग करते हुए, भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का.आ. 2622, तारीख 15 नवम्बर, 2017, जो भारत के राजपत्र, भाग II, खंड 3, उप-खंड (ii), तारीख 12 नवम्बर–18 नवम्बर, 2017 में प्रकाशित की गई थी, में निम्नलिखित संशोधन करती है, अर्थात् :-

2. उक्त अधिसूचना की अनुसूची में, शीर्षक "राजस्व भूमि के प्लाट का विवरण" के अधीन, –

(i) क्रम संख्या 1 के सामने "ग्राम तारा (भाग) में अर्जित किए जाने वाले प्लाट संख्यांक", प्लाट संख्यांक 781/1(भाग), 781/2(भाग), 783(भाग), 794(भाग), 895(भाग) लोप किया जाएगा।

(ii) क्रम संख्या 2 के सामने "ग्राम जनार्दनपुर (भाग) में अर्जित किए जाने वाले प्लाट संख्यांक",–

(क) प्लाट संख्यांक "424(भाग)" के पश्चात् प्लाट संख्यांक "425(भाग)" अंत:स्थापित किया जाएगा;

(ख) प्लाट संख्यांक "458(भाग)" के पश्चात् प्लाट संख्यांक "459(भाग), 460(भाग), 464(भाग)" अंत:स्थापित किया जाएगा;

(iii) क्रम संख्या 3 के सामने "ग्राम साल्ही (भाग) में अर्जित किए जाने वाले प्लाट संख्यांक",–

(क) प्लाट संख्यांक "373/2(भाग)" के पश्चात् प्लाट संख्यांक "373/3(भाग), 493/1(भाग), 493/2(भाग), 493/3(भाग)" अंत:स्थापित किया जाएगा;

(ख) प्लाट संख्यांक "502/3(भाग)" के पश्चात् प्लाट संख्यांक "503/1" अंत:स्थापित किया जाएगा;

(ग) प्लाट संख्यांक "727/3(भाग)" के पश्चात् प्लाट संख्याक "761, 772/1, 772/2, 772/3" अंत:स्थापित किया जाएगा;

(iv) क्रम संख्या 4 के सामने "ग्राम हरिहरपुर (भाग) में अर्जित किए जाने वाले प्लाट संख्यांक",--

(क) प्लाट संख्यांक "167/2" के पश्चात् प्लाट संख्यांक "167/3" अंत:स्थापित किया जाएगा;

(ख) प्लाट संख्याक "177(भाग)" के पश्चात् प्लाट संख्यांक "178" अंत:स्थापित किया जाएगा;

(ग) प्लाट संख्यांक "250/1, 250/2, 250/3, 250/4, 250/5, 250/6, 250/7, 250/8, 250/9" लोप किया जाएगा;

(v) क्रम संख्या 5 के सामने "ग्राम फतेहपुर (भाग) में अर्जित किए जाने वाले प्लाट संख्यांक",--

(क) प्लाट संख्यांक "265(भाग)" के पश्चात् प्लाट संख्याक "266, 267, 268/1(भाग), 268/2, 268/3, 269" अंत:स्थापित किए जाएंगे;

(ख) प्लाट संख्यांक "271/2" के पश्चात् प्लाट संख्याक "272/1, 272/2, 273/1(भाग), 274(भाग), 275(भाग), 276" अंत:स्थापित किए जाएंगे;

(ग) प्लाट संख्यांक "288" के पश्चात् प्लाट संख्यांक "290/1(भाग)" अंत:स्थापित किया जाएगा;

(घ) प्लाट संख्यांक "303/1(भाग)" के पश्चात् प्लाट संख्यांक "303/2(भाग), 303/6(भाग), 303/1 3(भाग)" अंत:स्थापित किए जाएंगे;

(ङ) प्लाट संख्यांक "313/1(भाग)" के पश्चात् प्लाट संख्यांक "313/4, 313/5(भाग)" अंत:स्थापित किए जाएंगे;

(च) प्लाट संख्यांक "316" के पश्चात् प्लाट संख्यांक "317/1, 317/2, 318/1, 318/2, 318/3, 318/4, 319/1, 319/2, 319/3, 320/1, 320/2, 320/3, 321(भाग), 322(भाग), 325(भाग), 326(भाग)" अंत:स्थापित किए जाएंगे;

(vi) "सीमा वर्णन" शीर्षक के अधीन,--

(क) उप-शीर्षक ज-क में, प्लाट संख्यांक "502", "503", "529", "687" के स्थान पर क्रमश: प्लाट संख्यांक "502/3", "503/2", "529/3", "687/3" रखे जाएंगे;

(ख) उप-शीर्षक क-ख में, प्लाट संख्यांक "710", "166", "4", के स्थान पर क्रमश: प्लाट संख्यांक "710/6", "177", "4/3" रखे जाएंगे;

(ग) उप-शीर्षक ख-ग में, प्लाट संख्यांक "314", "264", "277", के स्थान पर क्रमश: प्लाट संख्यांक "325" और "275" रखे जाएंगे;

(घ) उप-शीर्षक ग-घ-ङ.-च-छ-ज में, प्लाट संख्यांक "783", "794", के स्थान पर क्रमश: प्लाट संख्यांक "780", "793" रखे जाएंगे ।

[फा. सं. 43015/28/2017-एलए एण्ड आईआर]

एन. के. सुधांशु, संयुक्त सचिव

टिप्पण : मुख्य अधिसूचना संख्यांक का.आ. 2622, तारीख 15 नवम्बर, 2017, जो भारत के राजपत्र, भाग II, खंड 3, उप-खंड (ii), तारीख 12 नवम्बर-18 नवम्बर, 2017 में प्रकाशित की गई थी ।

MINISTRY OF COAL

NOTIFICATION

New Delhi, the 27th December, 2017

S.O. 4076(E).—In exercise of the powers conferred by sub-section (1) of section 7 of Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Coal number S.O. 2622, dated the 15th November, 2017 and published in the Gazette of India, Part II, Section 3, Sub- section (ii), November 12—November 18, 2017, namely:—

2. In the said notification, in the Schedule, under the heading "Plot details of Revenue Land",—

(i) against serial number 1 relating to "Plot numbers to be acquired in village – Tara (Part)", Plot numbers 781/1(P), 781/2(P), 783(P), 794(P), 895(P) shall be omitted.

(ii) against serial number 2 relating to "Plot numbers to be acquired in village – Janardanpur (Part)",—

(a) after plot number "424(P)", the plot number "425 (P)" shall be inserted;

(b) after plot number "458(P)", the plot numbers "459(P), 460 (P), 464 (P)" shall be inserted;

(iii) against serial number 3 relating to "Plot numbers to be acquired in village – Salhi (Part)",—

(a) after plot number "373/2 (P)", the plot numbers "373/3(P), 493/1(P), 493/2(P), 493/3(P)" shall be inserted;

(b) after plot number "502/3 (P)", the plot number "503/1" shall be inserted;

(c) after plot number "727/3(P)", the plot numbers "761, 772/1, 772/2 , 772/3" shall be inserted;

(iv) against serial number 4 relating to "Plot numbers to be acquired in village–Hariharpur (Part)",—

(a) after plot number "167/2", the plot number "167/3" shall be inserted;

(b) after plot number "177(P)", the plot number "178" shall be inserted;

(c) plot numbers "250/1, 250/2, 250/3, 250/4, 250/5, 250/6, 250/7, 250/8, 250/9" shall be omitted;

(v) against serial number 5 relating to "Plot numbers to be acquired in village–Fatehpur (Part)",—

(a) after plot number "265 (P)", the plot numbers "266, 267, 268/1(P), 268/2, 268/3, 269" shall be inserted;

(b) after plot number "271/2", the plot numbers "272/1, 272/2, 273/1(P), 274(P), 275(P), 276" shall be inserted;

(c) after plot number "288", the plot number "290/1(P)" shall be inserted;

(d) after plot number "303/1(P)", the plot numbers "303/2(P), 303/6(P), 303/13(P)" shall be inserted;

(e) after plot number "313/1(P)", the plot numbers "313/4, 313/5(P)" shall be inserted;

(f) after plot number "316", the plot numbers "317/1, 317/2, 318/1, 318/2, 318/3, 318/4, 319/1, 319/2, 319/3, 320/1, 320/2, 320/3, 321(P), 322(P), 325(P), 326(P)" shall be inserted;

(vi) under heading "Boundary Description",—

(a) in sub-heading H – A, for the plot numbers "502","503","529","687", the plot numbers "502/3", "503/2", "529/3", "687/3" shall respectively be substituted;

(b) in sub-heading A – B, for the plot numbers "710", "166", "4", the plot numbers "710/6", "177", "4/3" shall respectively be substituted;

(c) in sub-heading B –C, for the plot numbers "314", "264", "277", the plot numbers "325" and "275" shall respectively be substituted;

(d) in sub-heading C – D – E – F – G – H, for the plot numbers "783", "794", the plot numbers "780", "793" shall respectively be substituted.

[F. No. 43015/28/2017-LA&IR]

N. K. SUDHANSU, Jt. Secy.

Foot Note : The principal notification number S.O. 2622, dated the 15th November, 2017 was published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated the November 12—November 18, 2017.